

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. 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 June 01, 2013, 12:00 a.m., and June 14, 2013, 11:59 p.m. are included in this, the July 01, 2013 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 Rules being repealed are completely struck out.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 July 31, 2013. 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 October 29, 2013, 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, Conservation and Resource Management

### R64-2

## Utah Conservation Commission Electronic Proposed Meetings

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37680

FILED: 06/03/2013

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to establish written procedures for such meetings. This rule establishes procedures for conducting commission meetings by electronic means. The proposed amendment clarifies participation of a quorum to meet requirements. It also updates notification requirements.

SUMMARY OF THE RULE OR CHANGE: The changes to the rule are to correct the numbering of the Code references to match the current legislative code, notification was added to include the electronic notification website, and the word telephonic was changed to telephone for clarification. Also, the name of the Division is changed from "Conservation and Resource Management" to "Conservation Commission".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 52-4-207 and Subsection 4-18-105(2) (e)

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The amendments only clarify the meeting and notice requirements. They actually save funds over a face-to-face meetings due to travel expenses.
- ◆ LOCAL GOVERNMENTS: The amendment only clarifies the meeting and notice requirements. It saves funds over a face-to-face meeting due to travel expenses.
- ◆ SMALL BUSINESSES: This amendment only clarifies the meeting and notice requirements. It saves funds over a face-to-face meeting due to travel expenses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No other small business, businesses, or local government entities are affected because the only changes made from "telephonic" to "by telephone" and that the public website notice was added as a place for notification of meetings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There were no costs associated with any of the changes to this rule. The only changes were the added website notification and the word "telephone" changed from "telephonic".

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes were made to help clarify the rule and to update the notification of the public meeting website to be in compliance with state notification requirements.

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

AGRICULTURE AND FOOD  
CONSERVATION AND RESOURCE  
MANAGEMENT

350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ 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
- ◆ Thayne Mickelson by phone at 801-538-7171, by FAX at 801-538-9436, or by Internet E-mail at tmickelson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

**R64. Agriculture and Food, [~~Conservation and Resource Management~~]Conservation Commission.**

**R64-2. [~~Utah~~]Conservation Commission [~~Proposed~~]Electronic Meetings.**

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

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

(2) Authority. This rule is enacted under the authority of Sections 52-4-207, [~~63-46a-3~~] and 4-18-105[~~5,2d~~].

(3) Procedure. The following provisions govern any meeting at which [~~one or more~~]a voting majority of commissioners appear at the anchor location, [~~telephonically~~]by telephone, or electronically pursuant to Utah Code Section 52-4-207:

(a) If [~~one or more~~]enough commission members which constitute a voting majority [~~of the commission~~]intend to participate electronically or [~~telephonically~~]by telephone, public notices of the meeting shall [~~so indicate~~]be posted. In addition, the notice shall specify the anchor location where the members of the commission not participating electronically or [~~telephonically~~]by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be [~~provided to at least one newspaper of general circulation within the~~



~~state and to a local media correspondent~~ posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

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

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

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

**KEY: electronic meetings**

**Date of Enactment or Last Substantive Amendment:** ~~[June 3, 2008]~~ 2013

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

**Commerce, Occupational and  
 Professional Licensing  
 R156-11a  
 Barber, Cosmetologist/Barber,  
 Esthetician, Electrologist, and Nail  
 Technician Licensing Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37697

FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division and the Barbering, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board are proposing amendments in this filing to implement required reduction in cosmetologist/barber curriculum hour changes and other technical changes resulting from H.B. 238 which was passed during the 2013 General Session of the Legislature and was effective on 03/12/2013. The proposed amendments also

provide a time period for retention of records for schools that cease to operate and allows for substantially equivalent examinations.

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-11a-102, amendments in this section are statute update citation changes required as a result of the legislation changes to the governing statute. In Subsection R156-11a-302a(3), permits substantially equivalent examinations from other states to be accepted toward requirements for licensure. In Section R156-11a-605, amendments establish a minimum ten-year time period for retention and reporting student hours for schools that cease operation. Section R156-11a-705 is changed to specify the required change in cosmetology/barber curriculum hours from 2,000 hours to 1,600 hours.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-11a-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.

♦ **LOCAL GOVERNMENTS:** The proposed amendments only apply to various license classifications provided in Title 58, Chapter 11a, and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a, and applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business or qualify as a small business; however, while the change to the required cosmetology/barber hours may affect small businesses, cost or savings impact were considered in the passage of H.B. 238 (2013). The reduction in cosmetology/barber school hours from 2,000 to 1,600 should reduce the regulatory burden for Utah citizens. The addition of a time period for the retention of records may result in additional cost to the named individual or company holding those records; however, availability of that information and acceptance of substantially equivalent examinations should facilitate the licensure of professionals who may work in a small business or qualify as a small business. Any total costs or savings cannot be quantified due to a wide range of circumstances.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a, and applicants for licensure in those classifications. The cost or savings impact of the reduction in cosmetology/barber school hours from 2,000 to 1,600 were considered in the passage of H.B. 238 (2013). The reduction in cosmetology/barber school hours from 2,000 to 1,600 should also reduce the regulatory burden for Utah citizens. The addition of a time period for the

retention of records may result in additional cost to the named individual or company holding those records; however, availability of that information and acceptance of substantially equivalent examinations should facilitate the licensure of professionals. Any total costs or savings cannot be quantified due to a wide range of circumstances.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a, and applicants for licensure in those classifications. The cost or savings impact of the reduction in cosmetology/barber school hours from 2,000 to 1,600 were considered in the passage of H.B. 238 (2013). The reduction in cosmetology/barber school hours from 2,000 to 1,600 should also reduce the regulatory burden for Utah citizens. The addition of a time period for the retention of records may result in additional cost to the named individual or company holding those records; however, availability of that information and acceptance of substantially equivalent examinations should facilitate the licensure of professionals. Any total costs or savings cannot be quantified due to a wide range of circumstances.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As stated in the rule analysis, small businesses offering prelicensing education might experience costs in order to maintain student records over a period of ten years. These costs will vary, depending on each schools' storage method. However, it is anticipated that the associated costs will be minimal, particularly as to schools that maintain their records electronically.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 07/29/2013 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-11a. Barber, Cosmetologist/Barber, Esthetician,  
Electrologist, and Nail Technician Licensing Act Rule.  
R156-11a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or this rule:

(1) "Advanced pedicures", as used in Subsection 58-11a-102([3+]34)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

(a) utilizing manual instruments, implements, advanced electrical equipment, tools, or microdermabrasion for cleaning, trimming, softening, smoothing, or buffing;

(b) utilizing blades, including corn or callus planer or rasp, for smoothing, shaving or removing dead skin from the feet as defined in Section R156-11a-611; or

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

(2) "Aroma therapy" means the application of essential oils which are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion, for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

(3) "BCA acid" means bicloroacetic acid.

(4) "Body wraps", as used in Subsection 58-11a-102([3+]34)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

(5) "Chemical exfoliation", as defined in Subsections 58-11a-102([3+]34)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

(6) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

(7) "Dermaplane" means the use of a scalpel or bladed instrument under the direct supervision of a health care practitioner to shave the upper layers of the stratum corneum.

(8) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(a).

(9) "Equivalent number of credit hours" means:

(a) the following conversion table if on a semester basis:

(i) theory - 1 credit hour - 30 clock hours;

(ii) practice - 1 credit hour - 30 clock hours; and

(iii) clinical experience - 1 credit hour - 45 clock hours;

and

(b) the following conversion table if on a quarter basis:

(i) theory - 1 credit hour - 20 clock hours;

(ii) practice - 1 credit hour - 20 clock hours; and

(iii) clinical experience - 1 credit hour - 30 clock hours.

(10) "Exfoliation" means the sloughing off of non-living skin cells by superficial and non-invasive means.

(11) "Extraction" means the following:

(a) "advanced extraction", as used in Subsections 58-11a-102(~~34~~34)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin;

(b) "manual extraction", as used in Subsection 58-11a-102(25)(a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

(12) "Galvanic current" means a constant low-voltage direct current.

(13) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(c).

(14) "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a podiatrist under Title 58, Chapter 5A, Podiatric Physician Licensing Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Practice Act, acting within the appropriate scope of practice.

(15) "Hydrotherapy", as used in Subsection 58-11a-102(~~34~~34)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.

(16) "Indirect supervision" means the supervising instructor who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(b).

(17) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).

(18) "Lymphatic massage", as used in Subsections 58-11a-102(~~34~~34)(a)(ii) and 58-11a-302(11)(~~a~~)(C)(e), means a method using a light rhythmic pressure applied by manual or other means to the skin using specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.

(19) "Manipulating", as used in Subsection 58-11a-102(~~25~~28)(a), means applying a light pressure by the hands to the skin.

(20) "Microdermabrasion", as used in Subsection 58-11a-102(~~34~~34)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(21) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

(22) "Pedicure" means any of the following:

(a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;

(b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;

(c) callus removal by sanding, buffing, or filing; or

(d) massaging of the feet or lower portion of the leg.

(23) "TCA acid" means trichloroacetic acid.

(24) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

#### **R156-11a-302a. Qualifications for Licensure - Examination Requirements.**

In accordance with Section 58-11a-302, the examination requirements for licensure are established as follows:

(1) Applicants for each classification listed below shall pass within one year prior to the date of application, the respective examination with a passing score of at least 75% as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrologist Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetician Theory and Practical Examinations.

(f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, esthetician instructor, or nail technology instructor shall pass the NIC Instructor Examination.

(g) Applicants for licensure as a nail technician shall pass the NIC Nail Technician Theory and Practical Examinations.

(2) Applicants for licensure shall pass with a score of at least 75% the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination.

(3) Any substantially equivalent theory, practical or instructor examination approved by the licensing authority of any other state is acceptable for any of the examinations specified in Subsection(1).

#### **R156-11a-605. Standards for Protection of Students.**

In accordance with Subsections 58-11a-302(3)(c)(iii) and (iv), (6)(c)(iii) and (iv), (9)(c)(iii) and (iv), (13)(c)(iii) and (iv), (16)(c)(iii) and (iv), standards for the protection of students shall include the following:

(1) In the event a school ceases to operate for any reason, the school shall:

(a) notify the Division within 15 days by registered or certified mail; and

(b) [shall] name a trustee who [is] shall be responsible for;

(i) maintaining the student records for a minimum period of ten years; and

(ii) [Upon request, the trustee shall provide] providing information such as accumulated student hours and dates of attendance during that time.

(2) Schools shall provide a copy of the written contract prepared in accordance with Section R156-11a-607 to each student.

(3) Schools shall not use students to perform maintenance, janitorial or remodeling work such as scrubbing floor, walls or toilets, cleaning windows, waxing floors, painting, decorating, or performing any outside work on the grounds or

building. Students may be required to clean up after themselves and to perform or participate in daily cleanup of work areas, including the floor space, shampoo bowls, laundering of towels and linen and other general cleanup duties that are related to the performance of client services.

(4) Schools shall not require students to sell products applicable to their industry as a condition to graduate, but may provide instruction in product sales techniques as part of their curriculums.

(5) Schools shall keep a daily written record of student attendance.

(6) Schools shall not be permitted to remove hours earned by a student. If a student is late for class, the school may require the student to retake the class before giving credit for the class. Schools may require a student to take a refresher course or retake a class toward graduation based upon an evaluation of the student's level of competency.

(7) In accordance with Subsection 58-11a-502(3)(a), schools shall not require students to participate in hair removal training that pertains to the genitals or anus of a client.

#### **R156-11a-705. Curriculum for Cosmetology/Barber Schools.**

In accordance with Subsection 58-11a-302(6)(c)(iv), the curriculum for a cosmetology/barber school shall consist of [2,000]1,600 hours of instruction in all of the following subject areas:

- (1) introduction consisting of:
  - (a) history of barbering, cosmetology/barbering, esthetics, nail technology; and
  - (b) overview of the curriculum;
- (2) personal, client and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) disinfection and sterilization methods and procedures;
  - (c) health risks to the cosmetologist/barber;
- (3) business and salon management including:
  - (a) developing clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of skin, nails, hair, and scalp including:
  - (a) bacteriology;
  - (b) sanitation;
  - (c) sterilization;
  - (d) decontamination; and
  - (e) infection control;
- (7) implements, tools and equipment for cosmetology, barbering, basic esthetics and nail technology, including:
  - (a) high frequency or galvanic current; and
  - (b) heat lamps;
  - (8) first aid;
  - (9) anatomy;

- (10) science of cosmetology/barbering, basic esthetics and nail technology;
- (11) analysis of the skin, hair and scalp;
- (12) physiology of the human body including skin and nails;
- (13) electricity and light therapy;
- (14) limited chemical exfoliation including:
  - (a) pre-exfoliation consultation;
  - (b) post-exfoliation treatments; and
  - (c) chemical reactions;
- (15) chemistry for cosmetology/barbering, basic esthetics and nail technology;
- (16) temporary removal of superfluous hair including by waxing;
- (17) properties of the hair, skin and scalp;
- (18) basic hairstyling including:
  - (a) wet and thermal styling;
  - (b) permanent waving;
  - (c) hair coloring;
  - (d) chemical hair relaxing; and
  - (e) thermal hair straightening;
- (19) haircuts including:
  - (a) draping;
  - (b) clipper variations;
  - (c) scissor cutting;
  - (d) shaving; and
  - (e) wigs and artificial hair;
- (20) razor cutting for men;
- (21) mustache and beard design;
- (22) basic esthetics including:
  - (a) treatment of the skin, manual and mechanical;
  - (b) packs and masks;
  - (c) aroma therapy;
  - (d) chemistry of cosmetics;
  - (e) application of makeup including:
    - (i) application of artificial eyelashes;
    - (ii) arching of the eyebrows;
    - (iii) tinting of the eyelashes and eyebrows;
  - (f) massage of the face and neck; and
  - (g) natural manicures and pedicures;
- (23) medical devices;
- (24) cardio pulmonary resuscitation (CPR);
- (25) artificial nail techniques consisting of:
  - (a) wraps;
  - (b) nail tips;
  - (c) gel nails;
  - (d) sculptured and other acrylic nails; and
  - (e) nail art;
- (26) pedicures and massaging of the lower leg and foot;
- (27) elective topics; and
- (28) Utah Cosmetology/Barber Examination review.

**KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians**

**Date of Enactment or Last Substantive Amendment: [August 23, 2011]2013**

**Notice of Continuation: February 6, 2012**

**Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

**Commerce, Occupational and  
Professional Licensing  
R156-17b  
Pharmacy Practice Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37707

FILED: 06/10/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** S.B. 161 was passed during the 2012 Legislative Session. This bill exempts an oncologist or medical personnel acting under the direction of an oncologist from being licensed under the Pharmacy Practice Act to dispense a cancer drug regimen to a patient who is undergoing chemotherapy in an outpatient clinic setting if labeling, record keeping, patient counseling, storage, purchasing and distribution, operating, treatment, and quality of care requirements established by administrative rule adopted by the Division in consultation with the Board are followed. This amendment establishes these requirements. Other rule amendments are made at the request of the Pharmacy Board and are due to the passing of S.B. 194 during the 2013 Legislative Session.

**SUMMARY OF THE RULE OR CHANGE:** The following rule amendments are made throughout Rule R156-17b: capitalization, updating of references, renumbering of subsections, and minor grammatical changes. In Section R156-17b-102, updates the United States Pharmacopeia-National Formulary (USP-NF) to the most current May 1, 2013, edition. Subsection R156-17b-303a(3)(e) increases the amount of time permitted for a pharmacy technician-in-training to complete the pharmacy technician program and obtain licensure from one year to two years. It also clarifies that a technician-in-training who is not licensed within two years is only allowed to work as supportive personnel in a pharmacy and must repeat a pharmacy technician training program in its entirety for licensure. The current rule requires licensure within a year, which was not a reasonable time frame for countless students and special accommodation requests occupied an inordinate amount of Pharmacy Board and licensing staff time. The current rule is confusing and difficult to interpret. This rule amendment is very clear and student-friendly. Section R156-17b-303b equalizes the internship requirements for graduates of all U.S. and foreign pharmacy schools and mirrors the national standards set by the Accreditation Council for Pharmacy Education (ACPE). Over time, pharmacy internship standards for U.S. graduates became more rigorous, while foreign graduates/licensees were exempt from the rigor required by U.S. schools. In addition, Utah graduates were at a disadvantage when compared to pharmacists licensed by endorsement from other states due to a much higher internship hour

requirement in Utah when compared to other states. In accordance with Section 58-17b-309.5, Section R156-17b-310 requirements for dispensing cancer drug treatment regimen drugs are established, mirroring the requirements set forth in rule for dispensing cosmetic and injectable weight loss drugs. Subsection R156-17b-310(11) sets forth standards for reporting to the Utah Controlled Substance Database for practitioners exempt from licensure as a pharmacist, consistent with the Utah Controlled Substance Database Act and Rule. Subsection R156-17b-605(1)(k) renumbers Subsection (7). Subsection R156-17b-605 (2)(d) clarifies requirements for both opening and closing pharmacy inventories when two pharmacies are combined. In Section R156-17b-614a, clarifies and implements standards for procurement of compounding ingredients. It also eliminates the requirement for filing an investigational new drug application (IND) when a pharmacist engages in compounding using drugs that are not part of an FDA-approved drug list, in accordance with national guidelines in USP-NF Chapters 795 and 797. The title of Section R156-17b-614e is changed to reflect the more current intent of the rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-17b-101 and Section 58-37-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-17b-601(1)

**MATERIALS INCORPORATED BY REFERENCES:**

- ◆ Updates USP 36-NF 31, published by United States Pharmacopeia, May 1, 2013
- ◆ Adds Accreditation Standards and Guidelines for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree Guidelines Version 2.0, published by Accreditation Council for Pharmacy Education (ACPE), February 14, 2011

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Division may incur increased costs related to inspecting dispensing practitioners' offices, filing on or citing providers, and holding hearings. Controlled Substance Database (CSD) staff may spend more time teaching dispensing practitioners how to submit reports to and utilize the CSD. Allowing pharmacy technician students two years to complete training and licensing may decrease Division workload. However, the Division is unable to quantify the impact of these changes. The Division is also required to purchase two copies of the current edition of the USP-NF books at an annual renewal cost of approximately \$1,800.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed pharmacists, pharmacies, pharmacy technicians, and pharmacy interns and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.
- ◆ **SMALL BUSINESSES:** The small businesses most likely to be affected are provider offices and small pharmacies. Provider offices may see an increase in patients due to the convenience of provider dispensing, while pharmacies may

see a corresponding decrease in business. Pharmacies may also be positively impacted by technicians being allowed two years to complete a pharmacy technician program and licensing. However, the Division is unable to quantify the impact on small businesses. Also, it is unknown to the Division how many providers will choose to dispense medications.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Patients will be affected by provider dispensing. It is anticipated that the applicable amendments will result in more convenience and satisfaction for patients because they will not have to travel to the pharmacy and wait in line to have their prescriptions filled, particularly during treatment for cancer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Dispensing practitioners may have to remodel their offices, hire additional staff and improve office security. However, the Division is unable to quantify these potential costs to providers due to a wide range of circumstances.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These amendments are proposed primarily to make changes that are required under S.B. 161 (2012 Legislative Session). No costs to businesses are anticipated beyond those considered by the Legislature in determining to pass the bill. The remaining amendments make clarifications and nonsubstantive corrections, with no attendant costs to businesses.

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:

◆ Rich Oborn by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at [roborn@utah.gov](mailto:roborn@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 07/30/2013 08:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-17b. Pharmacy Practice Act Rule.**

**R156-17b-101. Title.**

This rule is known as the "Pharmacy Practice Act Rule".

**R156-17b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 17b, as used in Title 58, Chapters 1 and 17b or this rule:

(1) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(2) "Analytical laboratory":

(a) means a facility in possession of prescription drugs for the purpose of analysis; and

(b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are pre-diluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.

(3) "Authorized distributor of record" means a pharmaceutical wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs. An ongoing relationship is deemed to exist between such pharmaceutical wholesaler and a manufacturer, as defined in Section 1504 of the Internal Revenue Code, when the pharmaceutical wholesaler has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship, and the pharmaceutical wholesaler is listed on the manufacturer's current list of authorized distributors of record.

(4) "Authorized personnel" means any person who is a part of the pharmacy staff who participates in the operational processes of the pharmacy and contributes to the natural flow of pharmaceutical care.

(5) "Centralized Prescription Filling" means the filling by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order.

(6) "Centralized Prescription Processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review (DUR), claims adjudication, refill authorizations, and therapeutic interventions.

(7) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the prescription drugs to a group of chain pharmacies that have the same common ownership and control.

(8) "Co-licensed partner or product" means an instance where two or more parties have the right to engage in the manufacturing and/or marketing of a prescription drug, consistent with FDA's implementation of the Prescription Drug Marketing Act.

(9) "Cooperative pharmacy warehouse" means a physical location for drugs that acts as a central warehouse and is owned,

operated or affiliated with a group purchasing organization (GPO) or pharmacy buying cooperative and distributes those drugs exclusively to its members.

(10) "Counterfeit prescription drug" has the meaning given that term in 21 USC 321(g)(2), including any amendments thereto.

(11) "Counterfeiting" means engaging in activities that create a counterfeit prescription drug.

(12) "Dispense", as defined in Subsection 58-17b-102([23]22), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medication.

(13) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under Federal law to bear the label, "Caution: Federal or State law requires dispensing by or on the order of a physician."

(14) "Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:

(a) the pharmaceutical wholesale distributor takes title to but not physical possession of such prescription drug;

(b) the pharmaceutical wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense to administer such drug; and

(c) the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer; from the co-licensed product partner, third party logistics provider, or exclusive distributor; or from an authorized distributor of record that purchases the product directly from the manufacturer or from one of these entities.

(15) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists for the purpose of evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

(16) "Drugs", as used in this rule, means drugs or devices.

(17) "Durable medical equipment" or "DME" means equipment that:

(a) can withstand repeated use;

(b) is primarily and customarily used to serve a medical purpose;

(c) generally is not useful to a person in the absence of an illness or injury;

(d) is suitable for use in a health care facility or in the home; and

(e) may include devices and medical supplies.

(18) "ExCPT", as used in this rule, means the Exam for the Certification of Pharmacy Technicians.

(19) "FDA" means the United States Food and Drug Administration and any successor agency.

(20) "High-risk, medium-risk, and low-risk drugs" refers to the risk to a patient's health from compounding sterile

preparations, as referred to in USP-NF Chapter 797, for details of determining risk level.

(21) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

(22) "Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:

(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;

(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or

(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

(23) "Legend drug" or "prescription drug" means any drug or device that has been determined to be unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(a) "Caution: federal law prohibits dispensing without prescription";

(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(c) "Rx only".

(24) "Maintenance medications" means medications the patient takes on an ongoing basis.

(25) "Manufacturer's exclusive distributor" means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the drug's sale or disposition. Such manufacturer's exclusive distributor ~~must~~shall be licensed as a pharmaceutical wholesaler under this chapter and be an "authorized distributor of record" to be considered part of the "normal distribution channel".

(26) "Medical supplies" means items for medical use that are suitable for use in a health care facility or in the home and that are disposable or semi-disposable and are non-reusable.

(27) "MPJE" means the Multistate Jurisprudence Examination.

(28) "NABP" means the National Association of Boards of Pharmacy.

(29) "NAPLEX" means North American Pharmacy Licensing Examination.

(30) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection ([12]14), or via intracompany transfer from a manufacturer; or from the manufacturer's co-licensed partner, third-party logistics provider, or the exclusive distributor to:

(a) a pharmacy or other designated persons authorized under this chapter to dispense or administer prescription drugs to a patient;

(b) a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control;

(c) a cooperative pharmacy warehouse to a pharmacy that is a member of the pharmacy buying cooperative or GPO to a patient;

(d) an authorized distributor of record, and then to either a pharmacy or other designated persons authorized under this chapter to dispense or administer such drug for use by a patient;

(e) an authorized distributor of record, and then to a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control; or

(f) an authorized distributor of record to another authorized distributor of record to a licensed pharmaceutical facility or a licensed healthcare practitioner authorized under this chapter to dispense or administer such drug for use by a patient.

(31) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

(32) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

(33) "PIC", as used in this rule, means the pharmacist-in-charge.

(34) "Prescription files" means all hard-copy and electronic prescriptions that includes pharmacist notes or technician notes, clarifications or information written or attached that is pertinent to the prescription.

(35) "PTCB" means the Pharmacy Technician Certification Board.

(36) "Qualified continuing education", as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.

(37) "Refill" means to fill again.

(38) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist responsible for dispensing the product to a patient.

(39) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy or pharmacist for the purpose of removing those drugs from stock and destroying them.

(40) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

(41) "Supervisor" means a licensed pharmacist in good standing with the Division.

(42) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale. Such third party logistics provider ~~must~~ shall be licensed as a pharmaceutical wholesaler under this chapter and be an "authorized distributor of record" to be considered part of the "normal distribution channel".

(43) "Unauthorized personnel" means any person who is not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

(44) "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual

and indicates the name, strength, lot number and expiration date for the drug.

(45) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

(46) "USP-NF" means the United States Pharmacopeia-National Formulary (USP [35]36-NF [30]31), 201[2]3 edition, which is official from May 1, [2012]2013 through Supplement 2, dated December 1, 2012, which is hereby adopted and incorporated by reference.

(47) "Wholesaler" means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient.

(48) "Wholesale distribution" means the distribution of drugs to persons other than consumers or patients, but does not include:

(a) intracompany sales or transfers;

(b) the sale, purchase, distribution, trade, or other transfer of a prescription drug for emergency medical reasons, as defined under 21 CFR 203.3(m), including any amendments thereto;

(c) the sale, purchase, or trade of a drug pursuant to a prescription;

(d) the distribution of drug samples;

(e) the return or transfer of prescription drugs to the original manufacturer, original wholesale distributor, reverse distributor, or a third party returns processor;

(f) the sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record during a time period for which there is documentation from the manufacturer that the manufacturer is able to supply a prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

(g) the sale, purchase or exchange of blood or blood components for transfusions;

(h) the sale, transfer, merger or consolidation of all or part of the business of a pharmacy;

(i) delivery of a prescription drug by a common carrier;

or

(j) other transactions excluded from the definition of "wholesale distribution" under 21 CFR 203.3 (cc), including any amendments thereto.

#### **R156-17b-303a. Qualifications for Licensure - Education Requirements.**

(1) In accordance with Subsections 58-17b-303(2) and 58-17b-304(7)([e]b), the credentialing agency recognized to provide certification and evaluate equivalency of a foreign educated pharmacy graduate is the Foreign Pharmacy Graduate Examination Committee (FPGEC) of the National Association of Boards of Pharmacy Foundation.

(2) In accordance with Subsection 58-17b-304([6]Z), an applicant for a pharmacy intern license shall demonstrate that he meets one of the following education criteria:

(a) current admission in a College of Pharmacy accredited by the ACPE by written verification from the Dean of the College;



(b) a graduate degree from a school or college of pharmacy which is accredited by the ACPE; or

(c) a graduate degree from a foreign pharmacy school as established by a certificate of equivalency from an approved credentialing agency defined in Subsection (1).

(3) In accordance with Subsection 58-17b-305(1)(f), a pharmacy technician ~~must~~ shall complete an approved program of education and training that meets the following standards:

(a) The didactic training program ~~must~~ shall be approved by the Division in collaboration with the Board and ~~must~~ shall address, at a minimum, the following topics:

(i) legal aspects of pharmacy practice including federal and state laws and rules governing practice;

(ii) hygiene and aseptic techniques;

(iii) terminology, abbreviations and symbols;

(iv) pharmaceutical calculations;

(v) identification of drugs by trade and generic names, and therapeutic classifications;

(vi) filling of orders and prescriptions including packaging and labeling;

(vii) ordering, restocking, and maintaining drug inventory;

(viii) computer applications in the pharmacy; and

(ix) non-prescription products including cough and cold, nutritional, analgesics, allergy, diabetic testing supplies, first aid, ophthalmic, family planning, foot, feminine hygiene, gastrointestinal preparations, and pharmacy care over-the-counter drugs, except those over-the-counter drugs that are prescribed by a practitioner.

(b) This training program's curriculum and a copy of the final examination shall be submitted to the Division for approval by the Board prior to starting any training session with a pharmacy technician in training. The final examination ~~must~~ shall include questions covering each of the topics listed in Subsection (3)(a) above.

(c) Approval ~~must~~ shall be granted by the Division in collaboration with the Board before a student may start a program of study. An individual who completes a non-approved program is not eligible for licensure.

(d) The training program shall include:

(i) at least 180 but not more than 360 hours of directly supervised practical training as determined appropriate by the supervisor; and

(ii) written protocols and guidelines for the teaching pharmacist outlining the utilization and supervision of pharmacy technicians in training that address:

(A) the specific manner in which supervision will be completed; and

(B) an evaluative procedure to verify the accuracy and completeness of all acts, tasks and functions performed by the pharmacy technician in training.

(e)(i) An individual ~~must~~ shall complete an approved training program and successfully pass the required examinations as listed in Subsection R156-17b-~~302(3)~~303(b)(4) within ~~one~~ two years from the date of the first day of the training program, unless otherwise approved by the Division in collaboration with the Board.

(ii) An individual who has completed an approved program, but did not seek licensure within the ~~one~~ two-year time frame ~~shall~~:

(A) ~~is no longer eligible for employment as a technician-in-training and shall work in the pharmacy only as supportive personnel; and~~ complete a minimum of an additional 180 but not more than 360 hours of directly supervised refresher practice, as determined by the supervisor, in a pharmacy approved by the Board if it has been more than six months since having practiced in a pharmacy setting and less than two years since the initial start date of the program; or]

(B) shall repeat an approved pharmacy technician training program in its entirety if the individual pursues licensure as a pharmacy technician ~~it has been greater than two years since the initial start date of the program~~].

~~(ii) An individual who has been licensed as a pharmacy technician but allowed that license to expire for more than six months but less than two years and wishes to renew that license must complete a minimum of 180 but not more than 360 hours of directly supervised refresher practice, as determined appropriate by the supervisor, in a pharmacy approved by the Board.~~

~~(iii) An individual who has completed an approved program, but is awaiting the results of the required examinations may practice as a technician-in-training under the direct supervision of the pharmacist for a period not to exceed three months. If the individual fails the examinations, that individual can no longer work as at technician-in-training while waiting to retake the examinations. The individual shall work in the pharmacy only as supportive personnel.~~

(4) An applicant for licensure as a pharmacy technician is deemed to have met the qualifications for licensure in Subsection 58-17b-305(1)(f) and 58-17b-305(1)(g) if the applicant:

(a) is currently licensed and in good standing in another state and has not had any adverse action taken on that license;

(b) has engaged in the practice as a pharmacy technician for a minimum of 1,000 hours in that state within the past two years or equivalent experience as approved by the Division in collaboration with the Board;

(c) has passed and maintained current PTCB or ExCPT certification; and

(d) has passed the Utah Pharmacy Technician Law and Rule Examination.

#### **R156-17b-303b. ~~Qualifications for~~ Licensure - Pharmacist - Pharmacy Internship Standards.**

(1) In accordance with Subsection 58-17b-303(1)(g), the standards for the pharmacy internship required for licensure as a pharmacist ~~for graduates of all U.S. and foreign pharmacy schools~~, include the following:

(a) At least 1740 hours of practice supervised by a pharmacy preceptor shall be obtained in Utah or another state or territory of the United States, or a combination of both according to the Accreditation Council for Pharmacy Education (ACPE), Accreditation Standards and Guidelines for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree Guidelines Version 2.0 Effective February 14, 2001, which is hereby incorporated by reference ~~1500 hours of practice supervised by a pharmacy preceptor shall be obtained in Utah or another state or territory of the United States, or a combination of both~~.

(i) Introductory pharmacy practice experiences (IPPE) shall account for not less than 300 hours over the first three professional years. ~~Internship hours completed in Utah shall include~~

at least 360 hours but not more than 900 hours in a college-coordinated practical experience program as an integral part of the curriculum which shall include a minimum of 120 hours in each of the following practices:

- ~~(A) community pharmacy;~~
- ~~(B) institutional pharmacy; and~~
- ~~(C) any clinical setting.]~~

(ii) A minimum of 150 hours shall be balanced between community pharmacy and institutional health system settings.

(iii) Advanced pharmacy practice experiences (APPE) shall include at least 1440 hours (i.e., 36 weeks) during the last academic year and after all IPPE requirements are completed.

(iv) Required experiences shall:

(A) include primary, acute, chronic, and preventive care among patients of all ages; and

(B) develop pharmacist-delivered patient care competencies in the community pharmacy, hospital or health-system pharmacy, ambulatory care, inpatient/acute care, and general medicine settings.

(v) Internship hours completed in another state or territory of the United States shall be accepted based on the approval of the hours by the pharmacy board in the jurisdiction where the hours were obtained.

(b) Evidence of completed internship hours shall be documented to the Division by the pharmacy intern at the time application is made for a Utah pharmacist license.

(c) Pharmacy interns participating in internships may be credited no more than 50 hours per week of internship experience.

(d) No credit will be awarded for didactic experience.

(2) If a pharmacy intern is suspended or dismissed from an approved College of Pharmacy, the intern ~~must~~ shall notify the Division within 15 days of the suspension or dismissal.

(3) If a pharmacy intern ceases to meet all requirements for intern licensure, the pharmacy intern shall surrender the pharmacy intern license to the Division within 60 days unless an extension is requested and granted by the Division in collaboration with the Board.

### **R156-17b-303c. Qualifications for Licensure - Examinations.**

(1) In accordance with Subsection 58-17b-303(1)(h), the examinations that ~~must~~ shall be successfully passed by an applicant for licensure as a pharmacist are:

(a) the NAPLEX with a passing score as established by NABP; and

(b) the Multistate Pharmacy Jurisprudence Examination (MPJE) with a minimum passing score as established by NABP.

(2) An individual who has failed either examination twice shall meet with the Board to request an additional authorization to test. The Division, in collaboration with the Board, may require additional training as a condition for approval of an authorization to retest.

(3) In accordance with Subsection 58-17b-303(3)(j), an applicant applying by endorsement is required to pass the MPJE.

(4) In accordance with Subsection 58-17b-305(1)(g), the examinations which ~~must~~ shall be passed by an applicant applying for licensure as a pharmacy technician are:

(a) the Utah Pharmacy Technician Law and Rule Examination, taken as part of the application for licensure, with a minimum passing score of 88 percent; and

(b) the PTCB or ExCPT with a passing score as established by the certifying body. The certificate ~~must~~ shall exhibit a valid date and that the certification is active.

(5) A graduate of a foreign pharmacy school shall obtain a passing score on the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination.

### **R156-17b-310. Exemption from Licensure - Dispensing of Cosmetic, ~~or~~ Injectable Weight Loss, or Cancer Drug Treatment Regimen Drugs.**

(1) A cosmetic drug that can be dispensed by a prescribing practitioner or optometrist in accordance with Subsection 58-17b-309 is limited to Latisse.

(2) An injectable weight loss drug that can be dispensed by a prescribing practitioner in accordance with Subsection 58-17b-309 is limited to human chorionic gonadotropin.

(3) A cancer drug treatment regimen that can be dispensed by a prescribing practitioner or an individual employed by the prescribing practitioner in accordance with Subsection 58-17b-309.5(1) and (2) means a prescription drug used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient.

(a) A prescribing practitioner who chooses to dispense prescription medications shall disclose to the patient that the cancer drug treatment regimen may be obtained from a pharmacy unaffiliated with the prescribing practitioner and offer to the patient the opportunity to consult with a pharmacist if the patient desires patient counseling.

(b) Practitioners are required to document this interaction by keeping a signature log of all patients who have received this written information. These records are required to be kept for a period of five years and shall be readily available for inspection.

(4) A prescribing practitioner who chooses to dispense prescription medications shall meet the standards set forth in R156-17b-602 through R156-17b-605 and R156-17b-609 through R156-17b-611.

(5) In accordance with Subsections 58-17b-309(4)(c) and 58-17b-309.5(2)(b)(viii), a prescribing practitioner or optometrist who chooses to dispense a cosmetic drug, ~~or~~ a prescribing practitioner who chooses to dispense an injectable weight loss drug, as listed in Subsections (1) and (2), or a prescribing practitioner or the prescribing practitioner's employee who chooses to dispense drugs used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient to the prescribing practitioner's or optometrist's patients shall have a label securely affixed to the container indicating the following minimum information:

(a) the name, address and telephone number of the prescribing practitioner or optometrist prescribing and dispensing the drug;

(b) the serial number of the prescription as assigned by the dispensing prescribing practitioner or optometrist;

(c) the filling date of the prescription or its last dispensing date;

(d) the name of the patient;

(e) the directions for use and cautionary statements, if any, which are contained in the prescription order or are needed;

(f) the trade, generic or chemical name, amount dispensed and the strength of dosage form; and

(g) the beyond use date.

([4]6) A prescribing practitioner or optometrist who chooses to dispense a cosmetic drug, or a prescribing practitioner who chooses to dispense an injectable weight loss drug, as listed in Subsections (1) and (2), or a prescribing practitioner or the prescribing practitioner's employee who chooses to dispense drugs used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient shall keep inventory records for each drug dispensed pursuant to R156-17b-605 and a prescription dispensing medication profile for each patient receiving a drug dispensed by the prescribing practitioner or optometrist pursuant to R156-17b-609. Those records shall be made available to the Division upon request by the Division.

(a) The general requirements for an inventory of drugs dispensed by a prescribing practitioner, the prescribing practitioner's employee, or optometrist include:

(i) the prescribing practitioner or optometrist shall be responsible for taking all required inventories, but may delegate the performance of taking the inventory to another person;

(ii) the inventory records ~~[must]~~shall be maintained for a period of five years and be readily available for inspection;

(iii) the inventory records shall be filed separately from all other records;

(iv) the person taking the inventory and the prescribing practitioner or optometrist shall indicate the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken. The signature of the prescribing practitioner or optometrist and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;

(v) the initial inventory shall be completed within three working days of the date on which the prescribing practitioner or optometrist begins to dispense a drug under Sections 58-17b-309 and 58-17b-309.5; and

(vi) the annual inventory shall be within 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include all stocks including out-of-date drugs.

(b) A prescription dispensing medication profile shall be maintained for every patient receiving a drug that is dispensed by a prescribing practitioner or optometrist in accordance with Section 58-17b-309 and 58-17b-309.5 for a period of at least one year from the date of the most recent prescription fill or refill. The medication profile shall be kept as part of the patient's medical record and include, as a minimum, the following information:

(i) full name of the patient, address, telephone number, date of birth or age, and gender;

(ii) patient history where significant, including known allergies and drug reactions; and

(iii) a list of drugs being dispensed including:

(A) name of prescription drug;

(B) strength of prescription drug;

(C) quantity dispensed;

(D) prescription drug lot number and name of manufacturer;

(E) date of filling or refilling;

(F) charge for the prescription drug as dispensed to the patient;

(G) any additional comments relevant to the patient's drug use; and

(H) documentation that patient counseling was provided in accordance with Subsection ([5]7).

([5]7) A prescribing practitioner or optometrist who is dispensing a cosmetic drug or injectable weight loss drug listed in Subsections (1) and (2) in accordance with Subsection 58-17b-309(4)(c), or a prescribing practitioner or the prescribing practitioner's employee who chooses to dispense drugs used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient in accordance with Section 58-17b-309.5, shall include the following elements when providing patient counseling:

(a) the name and description of the prescription drug;

(b) the dosage form, dose, route of administration and duration of drug therapy;

(c) intended use of the drug and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescription refill information;

(i) action to be taken in the event of a missed dose;

(j) prescribing practitioner or optometrist comments relevant to the individual's drug therapy, including any other information specific to the patient or drug; and

(k) the date after which the prescription should not be taken or used, or the beyond use date.

([6]8) In accordance with Subsection 58-17b-309(4)(c), the medication storage standards that ~~[must]~~shall be maintained by a prescribing practitioner or optometrist who dispenses a drug under Subsections (1) and (2), or a prescribing practitioner or the prescribing practitioner's employee who chooses to dispense drugs used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient in accordance with Section 58-17b-309.5, provides that the storage space shall be:

(a) kept in an area that is well lighted, well ventilated, clean and sanitary;

(b) equipped to permit the orderly storage of prescription drugs in a manner to permit clear identification, separation and easy retrieval of products and an environment necessary to maintain the integrity of the drug inventory;

(c) equipped with a security system to permit detection of entry at all times when the prescribing practitioner's or optometrist's office or clinic is closed;

(d) at a temperature which is maintained within a range compatible with the proper storage of drugs; and

(e) securely locked with only the prescribing practitioner or optometrist having access when the prescribing practitioner's or optometrist's office or clinic is closed.

([7]9) In accordance with Subsections 58-17b-309(5) and 58-17b-309.5(1)(b), if a cosmetic drug or a weight loss drug listed in Subsections (1) and (2), or a drug used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient requires reconstitution or compounding to prepare the drug for administration, the prescribing practitioner or optometrist shall follow the USP-NF 797 standards for sterile compounding.

(~~8~~10) In accordance with Subsection 58-17b-309(5), factors that shall be considered by licensing boards when determining if a drug may be dispensed by a prescribing practitioner, the prescribing practitioner's employee or optometrist, include whether:

- (a)(i) the drug has FDA approval;
- (ii)(A) is prescribed and dispensed for the conditions or indication for which the drug was approved to treat; or
- (B) the prescribing practitioner or optometrist takes full responsibility for prescribing and dispensing a drug for off-label use;
- (b) the drug has been approved for self administration by the FDA;
- (c) the stability of the drug is adequate for the supply being dispensed; and
- (d) the drug can be safely dispensed by a prescribing practitioner or optometrist.

(11) Standards for reporting to the Utah Controlled Substance Database shall be the same standards as set forth in the Utah Controlled Substance Database Act, Title 58, Chapter 37f, and the Utah Controlled Substance Database Act Rule, R156-37f.

#### **R156-17b-601. Operating Standards - Pharmacy Technician.**

In accordance with Subsection 58-17b-102(5)~~4~~, practice as a licensed pharmacy technician is defined as follows:

(1) The pharmacy technician may perform any task associated with the physical preparation and processing of prescription and medication orders including:

- (a) receiving written prescriptions;
- (b) taking refill orders;
- (c) entering and retrieving information into and from a database or patient profile;
- (d) preparing labels;
- (e) retrieving medications from inventory;
- (f) counting and pouring into containers;
- (g) placing medications into patient storage containers;
- (h) affixing labels;
- (i) compounding;
- (j) counseling for over-the-counter drugs and dietary supplements under the direction of the supervising pharmacist as referenced in Subsection [~~R156-17b-304(3)(iv)~~58-17b-102(55)(b)~~(2)~~];

(k) accepting new prescription drug orders left on voicemail for a pharmacist to review; and

(1) additional tasks not requiring the judgment of a pharmacist.

(2) The pharmacy technician shall not receive new verbal prescriptions or medication orders, clarify prescriptions or medication orders nor perform drug utilization reviews.

(3) Pharmacy technicians, including no more than one pharmacy technician-in-training per shift, shall have direct supervision by a pharmacist in accordance with Subsection R156-17b-603(~~19~~2)(s).

#### **R156-17b-604. Operating Standards - Closing a Pharmacy.**

At least 14 days prior to the closing of a pharmacy, the PIC shall comply with the following:

(1) If the pharmacy is registered to possess controlled substances, send a written notification to the appropriate regional

office of the Drug Enforcement Administration (DEA) containing the following information:

- (a) the name, address and DEA registration number of the pharmacy;
- (b) the anticipated date of closing;
- (c) the name, address and DEA registration number of the pharmacy acquiring the controlled substances; and
- (d) the date on which the transfer of controlled substances will occur.

(2) If the pharmacy dispenses prescription drug orders, post a closing notice sign in a conspicuous place in the front of the prescription department and at all public entrance doors to the pharmacy. Such closing notice shall contain the following information:

- (a) the date of closing; and
- (b) the name, address and telephone number of the pharmacy acquiring the prescription drug orders, including refill information and patient medication records of the pharmacy.

(3) On the date of closing, the PIC shall remove all prescription drugs from the pharmacy by one or a combination of the following methods:

- (a) return prescription drugs to manufacturer or supplier for credit or disposal; or
- (b) transfer, sell or give away prescription drugs to a person who is legally entitled to possess drugs, such as a hospital or another pharmacy.

(4) If the pharmacy dispenses prescription drug orders:

- (a) transfer the prescription drug order files, including refill information and patient medication records, to a licensed pharmacy within a reasonable distance of the closing pharmacy; and
- (b) move all signs or notify the landlord or owner of the property that it is unlawful to use the word "pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead or tend to mislead the public that a pharmacy is located at this address.

(5) Within 10 days of the closing of the pharmacy, the PIC shall forward to the Division a written notice of the closing that includes the following information:

- (a) the actual date of closing;
- (b) the license issued to the pharmacy;
- (c) a statement attesting:
  - (i) that an inventory as specified in Subsection R156-17b-605(~~6~~5) has been conducted; and
  - (ii) the manner in which the legend drugs and controlled substances possessed by the pharmacy were transferred or disposed;
- (d) if the pharmacy dispenses prescription drug orders, the name and address of the pharmacy to which the prescription drug orders, including refill information and patient medication records, were transferred.

(6) If the pharmacy is registered to possess controlled substances, a letter [~~must~~shall] be sent to the appropriate DEA regional office explaining that the pharmacy has closed. The letter shall include the following items:

- (a) DEA registration certificate;
- (b) all unused DEA order forms (Form 222) with the word "VOID" written on the face of each order form; and
- (c) copy #2 of any DEA order forms (Form 222) used to transfer Schedule II controlled substances from the closed pharmacy.

(7) If the pharmacy is closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy or other emergency circumstances and the PIC cannot provide notification 14 days prior to the closing, the PIC shall comply with the provisions of Subsection (1) as far in advance of the closing as allowed by the circumstances.

(8) If the PIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with the provisions of this section.

#### **R156-17b-605. Operating Standards - Inventory Requirements.**

(1) General requirements for inventory of a pharmacy shall include the following:

(a) the PIC shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person or persons;

(b) the inventory records ~~[must]~~shall be maintained for a period of five years and be readily available for inspection;

(c) the inventory records shall be filed separately from all other records;

(d) the inventory records shall be in a typewritten or printed form and include all stocks of controlled substances on hand on the date of the inventory including any that are out of date drugs and drugs in automated pharmacy systems. An inventory taken by use of a verbal recording device ~~[must]~~shall be promptly transcribed;

(e) the inventory may be taken either as of the opening of the business or the close of business on the inventory date;

(f) the person taking the inventory and the PIC shall indicate the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken. The signature of the PIC and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;

(g) the person taking the inventory shall make an exact count or measure all controlled substances listed in Schedule I or II;

(h) the person taking the inventory shall make an estimated count or measure all Schedule III, IV or V controlled substances, unless the container holds more than 1,000 tablets or capsules in which case an exact count of the contents ~~[must]~~shall be made;

(i) the inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV and V controlled substances;~~and]~~

(j) if the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory; and

(k) all out of date legend drugs and controlled substances shall be removed from the inventory at regular intervals and in correlation to the date of expiration imprinted on the label.

(2) Requirement for taking the initial inventory shall include the following:

(a) all pharmacies having any stock of controlled substances shall take an inventory on the opening day of business. Such inventory shall include all controlled substances including any out-of-date drugs and drugs in automated pharmacy systems;

(b) in the event a pharmacy commences business with none of the drugs specified in paragraph (2)(a) of this section on

hand, the pharmacy shall record this fact as the initial inventory; ~~and]~~

(c) the initial inventory shall serve as the pharmacy's inventory until the next completed inventory as specified in Subsection (3) of this section; and

(d) when combining two pharmacies, each pharmacy shall:

(i) conduct a separate closing pharmacy inventory of controlled substances on the date of closure; and

(ii) conduct a combined opening inventory of controlled substances for the new pharmacy prior to opening.

(3) Requirement for annual inventory shall be within 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include all stocks including out-of-date drugs and drugs in automated pharmacy systems.

(4) Requirements for change of ownership shall include the following:

(a) a pharmacy that changes ownership shall take an inventory of all legend drugs and controlled substances including out-of-date drugs and drugs in automated pharmacy systems on the date of the change of ownership;

(b) such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer; and

(c) transfer of Schedule I and II controlled substances shall require the use of official DEA order forms (Form 222).

(5) Requirement for taking inventory when closing a pharmacy includes the PIC, owner, or the legal representative of a pharmacy that ceases to operate as a pharmacy shall forward to the Division, within ten days of cessation of operation, a statement attesting that an inventory has been conducted, the date of closing and a statement attesting the manner by which legend drugs and controlled substances possessed by the pharmacy were transferred or disposed. ]

~~(6) Requirements specific to taking inventory in a Class B pharmacy shall include the following:~~

~~(a) all Class B pharmacies shall maintain a perpetual inventory of all Schedule II controlled substances which shall be reconciled according to facility policy; and~~

~~(b) the inventory of the institution shall be maintained in the pharmacy; if an inventory is conducted in other departments within the institution, the inventory shall be listed separately as follows:~~

~~(i) the inventory of drugs on hand in the pharmacy shall be listed separately from the inventory of drugs on hand in the other areas of the institution; and~~

~~(ii) the inventory of the drugs on hand in all other departments shall be identified by department.~~

~~(7) All out of date legend drugs and controlled substances shall be removed from the inventory at regular intervals and in correlation to the date of expiration imprinted on the label.]~~

#### **R156-17b-610. Operating Standards - Patient Counseling.**

In accordance with Subsection 58-17b-601(1), guidelines for providing patient counseling established in Section 58-17b-613 include the following:

(1) Based upon the pharmacist's or pharmacy intern's professional judgment, patient counseling may be discussed to include the following elements:

- (a) the name and description of the prescription drug;
- (b) the dosage form, dose, route of administration and duration of drug therapy;
- (c) intended use of the drug, when known, and expected action;
- (d) special directions and precautions for preparation, administration and use by the patient;
- (e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;
- (f) techniques for self-monitoring drug therapy;
- (g) proper storage;
- (h) prescription refill information;
- (i) action to be taken in the event of a missed dose;
- (j) pharmacist comments relevant to the individual's drug therapy, including any other information specific to the patient or drug; and
- (k) the date after which the prescription should not be taken or used, or the beyond use date.

(2) Patient counseling shall not be required for inpatients of a hospital or institution where other licensed health care professionals are authorized to administer the drugs.

(3) A pharmacist shall not be required to counsel a patient or patient's agent when the patient or patient's agent refuses such consultation.

(4) The offer to counsel shall be documented and said documentation shall be available to the Division. These records ~~must~~ shall be maintained for a period of five years and be available for inspection within 7-10 business days.

(5) Counseling shall be:

- (a) provided with each new prescription drug order, once yearly on maintenance medications, and if the pharmacist deems appropriate with prescription drug refills;
- (b) provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent; and
- (c) communicated verbally in person unless the patient or the patient's agent is not at the pharmacy or a specific communication barrier prohibits such verbal communication.

(6) Only a pharmacist or pharmacy intern may verbally provide drug information to a patient or patient's agent and answer questions concerning prescription drugs.

(7) In addition to the requirements of Subsections (1) through (6) of this section, if a prescription drug order is delivered to the patient at the pharmacy, a filled prescription may not be delivered to a patient unless a pharmacist is in the pharmacy. However, an agent of the pharmacist may deliver a prescription drug order to the patient or the patient's agent if the pharmacist is absent for ten minutes or less and provided a record of the delivery is maintained and contains the following information:

- (a) date of the delivery;
- (b) unique identification number of the prescription drug order;
- (c) patient's name;
- (d) patient's phone number or the phone number of the person picking up the prescription; and
- (e) signature of the person picking up the prescription.

(8) If a prescription drug order is delivered to the patient or the patient's agent at the patient's or other designated location, the following is applicable:

- (a) the information specified in Subsection (1) of this section shall be delivered with the dispensed prescription in writing;
- (b) if prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container, the telephone number of the pharmacy and the statement "Written information about this prescription has been provided for you. Please read this information before you take this medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions."; and
- (c) written information provided in Subsection (8)(b) of this section shall be in the form of patient information leaflets similar to USP-NF patient information monographs or equivalent information.

#### **R156-17b-612. Operating Standards - Prescriptions.**

In accordance with Subsection 58-17b-601(1), the following shall apply to prescriptions:

(1) Prescription orders for controlled substances (including prescription transfers) shall be handled according to the rules of the Federal Drug Enforcement Administration.

(2) A prescription issued by an authorized licensed practitioner, if verbally communicated by an agent of that practitioner upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist or pharmacy intern.

(3) A prescription issued by a licensed prescribing practitioner, if electronically communicated by an agent of that practitioner, upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern and pharmacy technician.

(4) In accordance with Sections 58-17b-609 and 58-17b-611, prescription files, including refill information, shall be maintained for a minimum of five years and shall be immediately retrievable in written or electronic format.

(5) Prescriptions for legend drugs having a remaining authorization for refill may be transferred by the pharmacist or pharmacy intern at the pharmacy holding the prescription to a pharmacist or pharmacy intern at another pharmacy upon the authorization of the patient to whom the prescription was issued or electronically as authorized under Subsection R156-17b-613(9). The transferring pharmacist or pharmacy intern and receiving pharmacist or pharmacy intern shall act diligently to ensure that the total number of authorized refills is not exceeded. The following additional terms apply to such a transfer:

(a) the transfer shall be communicated directly between pharmacists or pharmacy interns or as authorized under Subsection R156-17b-613(9);

(b) both the original and the transferred prescription drug orders shall be maintained for a period of five years from the date of the last refill;

(c) the pharmacist or pharmacy intern transferring the prescription drug order shall void the prescription electronically or write void/transfer on the face of the invalidated prescription manually;

(d) the pharmacist or pharmacy intern receiving the transferred prescription drug order shall:

(i) indicate on the prescription record that the prescription was transferred electronically or manually; and

(ii) record on the transferred prescription drug order the following information:

(A) original date of issuance and date of dispensing or receipt, if different from date of issuance;

(B) original prescription number and the number of refills authorized on the original prescription drug order;

(C) number of valid refills remaining and the date of last refill, if applicable;

(D) the name and address of the pharmacy and the name of the pharmacist or pharmacy intern to which such prescription is transferred; and

(E) the name of the pharmacist or pharmacy intern transferring the prescription drug order information;

(e) the data processing system shall have a mechanism to prohibit the transfer or refilling of legend drugs or controlled substance prescription drug orders which have been previously transferred; and

(f) a pharmacist or pharmacy intern may not refuse to transfer original prescription information to another pharmacist or pharmacy intern who is acting on behalf of a patient and who is making a request for this information as specified in Subsection (12) of this section.

(6) Prescriptions for terminal patients in licensed hospices, home health agencies or nursing homes may be partially filled if the patient has a medical diagnosis documenting a terminal illness and may not need the full prescription amount.

(7) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order;

(8) If there are no refill instructions on the original prescription drug order, or if all refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner ~~must~~ shall be obtained prior to dispensing any refills.

(9) Refills of prescription drug orders for legend drugs may not be refilled after one year from the date of issuance of the original prescription drug order without obtaining authorization from the prescribing practitioner prior to dispensing any additional quantities of the drug.

(10) Refills of prescription drug orders for controlled substances shall be done in accordance with Subsection 58-37-6(7) (f).

(11) A pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a controlled substance listed in Schedule II, without the authorization of the prescribing practitioner, provided:

(a) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(b) either:

(i) a natural or manmade disaster has occurred which prohibits the pharmacist from being able to contact the practitioner; or

(ii) the pharmacist is unable to contact the practitioner after a reasonable effort, the effort should be documented and said documentation should be available to the Division;

(c) the quantity of prescription drug dispensed does not exceed a 72-hour supply, unless the packaging is in a greater quantity;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(e) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(f) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection; and

(g) the pharmacist affixes a label to the dispensing container as specified in Section 58-17b-602.

(12) If the prescription was originally filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(a) the patient has the prescription container label, receipt or other documentation from the other pharmacy which contains the essential information;

(b) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(c) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of (a) and (b) of this subsection; and

(d) the pharmacist complies with the requirements of Subsections (11)(c) through (g) of this section.

(13) The address specified in Subsection 58-17b-602(1) (b) shall be a physical address, not a post office box.

(14) In accordance with Subsection 58-37-6(7)(e), a prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(a) the person who writes the prescription is licensed to prescribe Schedule I controlled substances; and

(b) the prescribed controlled substance is to be used in research.

#### **R156-17b-613. Operating Standards - Issuing Prescription Orders by Electronic Means.**

In accordance with Subsections 58-17b-102(28) ~~and through~~ (29), ~~and~~ 58-17b-602(1), ~~R156-82, and R156-1,~~ prescription orders may be issued by electronic means of communication according to the following standards:

(1) Prescription orders for Schedule II - V controlled substances received by electronic means of communication shall be handled according to Part 1304.04 of Section 21 of the CFR.

(2) Prescription orders for non-controlled substances received by electronic means of communication may be dispensed by a pharmacist or pharmacy intern only if all of the following conditions are satisfied:

(a) all electronically transmitted prescription orders shall include the following:

(i) all information that is required to be contained in a prescription order pursuant to Section 58-17b-602;

(ii) the time and date of the transmission, and if a facsimile transmission, the electronically encoded date, time and fax number of the sender; and

(iii) the name of the pharmacy intended to receive the transmission;

(b) the prescription order shall be transmitted under the direct supervision of the prescribing practitioner or his designated agent;

(c) the pharmacist shall exercise professional judgment regarding the accuracy and authenticity of the transmitted prescription. Practitioners or their agents transmitting medication orders using electronic equipment are to provide voice verification when requested by the pharmacist receiving the medication order. The pharmacist is responsible for assuring that each electronically transferred prescription order is valid and shall authenticate a prescription order issued by a prescribing practitioner which has been transmitted to the dispensing pharmacy before filling it, whenever there is a question;

(d) a practitioner may authorize an agent to electronically transmit a prescription provided that the identifying information of the transmitting agent is included on the transmission. The practitioner's electronic signature, or other secure method of validation, shall be provided with the electronic prescription; and

(e) an electronically transmitted prescription order that meets the requirements above shall be deemed to be the original prescription.

(3) This section does not apply to the use of electronic equipment to transmit prescription orders within inpatient medical facilities.

(4) No agreement between a prescribing practitioner and a pharmacy shall require that prescription orders be transmitted by electronic means from the prescribing practitioner to that pharmacy only.

(5) The pharmacist shall retain a printed copy of an electronic prescription, or a record of an electronic prescription that is readily retrievable and printable, for a minimum of five years. The printed copy shall be of non-fading legibility.

(6) Wholesalers, distributors, manufacturers, pharmacists and pharmacies shall not supply electronic equipment to any prescriber for transmitting prescription orders.

(7) An electronically transmitted prescription order shall be transmitted to the pharmacy of the patient's choice.

(8) Prescription orders electronically transmitted to the pharmacy by the patient shall not be filled or dispensed.

(9) A prescription order for a legend drug or controlled substance in Schedule III through V may be transferred up to the maximum refills permitted by law or by the prescriber by electronic transmission providing the pharmacies share a real-time, on-line database provided that:

(a) the information required to be on the transferred prescription has the same information as described in Subsection R156-17b-612(5)(a) through (f); and

(b) pharmacists, pharmacy interns or pharmacy technicians electronically accessing the same prescription drug order records may electronically transfer prescription information if the data processing system has a mechanism to send a message to the transferring pharmacy containing the following information:

(i) the fact that the prescription drug order was transferred;

(ii) the unique identification number of the prescription drug order transferred;

(iii) the name of the pharmacy to which it was transferred; and

(iv) the date and time of the transfer.

**R156-17b-614a. Operating Standards - Operating Standards, Class A and B Pharmacy.**

(1) In accordance with Subsection 58-17b-601(1), standards for the operations for a Class A and Class B pharmacy include:

(a) shall be well lighted, well ventilated, clean and sanitary;

(b) the dispensing area, if any, shall have a sink with hot and cold culinary water separate and apart from any restroom facilities. This does not apply to clean rooms where sterile products are prepared. Clean rooms should not have sinks or floor drains that expose the area to an open sewer. All required equipment shall be clean and in good operating condition;

(c) be equipped to permit the orderly storage of prescription drugs and durable medical equipment in a manner to permit clear identification, separation and easy retrieval of products and an environment necessary to maintain the integrity of the product inventory;

(d) be equipped to permit practice within the standards and ethics of the profession as dictated by the usual and ordinary scope of practice to be conducted within that facility;

(e) be stocked with the quality and quantity of product necessary for the facility to meet its scope of practice in a manner consistent with the public health, safety and welfare; and

(f) be equipped with a security system to permit detection of entry at all times when the facility is closed.

(2) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs. The temperature of the refrigerator and freezer shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration or freezing.

(3) Facilities engaged in [~~extensive~~]compounding activities shall be required to maintain proper records and procedure manuals and establish quality control measures to ensure stability, equivalency where applicable and sterility. The following requirements shall be met:

(a) [~~must~~]shall follow USP-NF Chapter 795, compounding of non-sterile preparations, and USP-NF Chapter 797 if compounding sterile preparations;

(b) may compound in anticipation of receiving prescriptions in limited amounts;

(c) bulk active ingredients [~~must~~]shall:

(i) be procured from a facility registered with the federal Food and Drug Administration; and~~be component of FDA approved drugs listed in the approved drug products prepared by the Center for Drug Evaluation and Research of the FDA;~~

(ii) not be listed on the federal Food and Drug Administration list of drug products withdrawn or removed from the market for reasons of safety or effectiveness;

(d) [~~compounding using drugs that are not part of a FDA approved drug listed in the approved drug products prepared by the Center for Drug Evaluation and Research of the FDA requires an investigational new drug application (IND). The IND approval shall be kept in the pharmacy for five years for inspection;~~



—(e)—a master worksheet shall be developed and approved by a pharmacist for each batch of sterile or non-sterile pharmaceuticals to be prepared. Once approved, a duplicate of the master worksheet shall be used as the preparation worksheet sheet from which each batch is prepared and on which all documentation for that batch occurs. The master worksheet shall contain at a minimum:

- (i) the formula;
- (ii) the components;
- (iii) the compounding directions;
- (iv) a sample label;
- (v) evaluation and testing requirements;
- (vi) sterilization methods, if applicable;
- (vii) specific equipment used during preparation such as specific compounding device; and

(f) a preparation worksheet for each batch of sterile or non-sterile pharmaceuticals shall document the following:

- (i) identity of all solutions and ingredients and their corresponding amounts, concentrations, or volumes;
- (ii) manufacturer lot number for each component;
- (iii) component manufacturer or suitable identifying number;
- (iv) container specifications (e.g. syringe, pump cassette);
- (v) unique lot or control number assigned to batch;
- (vi) expiration date of batch prepared products;
- (vii) date of preparation;
- (viii) name, initials or electronic signature of the person or persons involved in the preparation;
- (ix) names, initials or electronic signature of the responsible pharmacist;
- (x) end-product evaluation and testing specifications, if applicable; and
- (xi) comparison of actual yield to anticipated yield, when appropriate;

(g) the label of each batch prepared of sterile or non-sterile pharmaceuticals shall bear at a minimum:

- (i) the unique lot number assigned to the batch;
  - (ii) all solution and ingredient names, amounts, strengths and concentrations, when applicable;
  - (iii) quantity;
  - (iv) expiration date and time, when applicable;
  - (v) appropriate ancillary instructions, such as storage instructions or cautionary statements, including cytotoxic warning labels where appropriate; and
  - (vi) device-specific instructions, where appropriate;
- (h) the expiration date assigned shall be based on currently available drug stability information and sterility considerations or appropriate in-house or contract service stability testing;

(i) sources of drug stability information shall include the following:

- (A) references can be found in Trissel's "Handbook on Injectable Drugs", [46]17th Edition, October [27, 2010]31, 2012;
- (B) manufacturer recommendations; and
- (C) reliable, published research;
- (ii) when interpreting published drug stability information, the pharmacist shall consider all aspects of the final

sterile product being prepared such as drug reservoir, drug concentration and storage conditions; and

(iii) methods for establishing expiration dates shall be documented; and

(i) there shall be a documented, ongoing quality control program that monitors and evaluates personnel performance, equipment and facilities that follows the USP-NF Chapters 795 and 797 standards.

(4) The facility shall have current and retrievable editions of the following reference publications in print or electronic format and readily available and retrievable to facility personnel:

(a) Title 58, Chapter 1, Division of Occupational and Professional Licensing Act'

(b) R156-1, General Rule[s] of the Division of Occupational and Professional Licensing;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) R156-17b, Utah Pharmacy Practice Act Rule;

(e) Title 58, Chapter 37, Utah Controlled Substances Act;

(f) R156-37, Utah Controlled Substances Act Rule;

(g) Title 58, Chapter 37f, Controlled Substance Database Act;

(h) R156-37f, Controlled Substance Database Act Rule;

(i) Code of Federal Regulations (CFR) 21, Food and Drugs, Part 1300 to end or equivalent such as the USP DI Drug Reference Guides;

(j) current FDA Approved Drug Products (orange book);

and

(k) any other general drug references necessary to permit practice dictated by the usual and ordinary scope of practice to be conducted within that facility.

(5) The facility shall post the license of the facility and the license or a copy of the license of each pharmacist, pharmacy intern and pharmacy technician who is employed in the facility, but may not post the license of any pharmacist, pharmacy intern or pharmacy technician not actually employed in the facility.

(6) Facilities shall have a counseling area to allow for confidential patient counseling, where applicable.

(7) If the pharmacy is located within a larger facility such as a grocery or department store, and a licensed Utah pharmacist is not immediately available in the facility, the pharmacy shall not remain open to pharmacy patients and shall be locked in such a way as to bar entry to the public or any non-pharmacy personnel. All pharmacies located within a larger facility shall be locked and enclosed in such a way as to bar entry by the public or any non-pharmacy personnel when the pharmacy is closed.

(8) Only a licensed Utah pharmacist or authorized pharmacy personnel shall have access to the pharmacy when the pharmacy is closed.

(9) The facility shall maintain a permanent log of the initials or identification codes which identify each dispensing pharmacist by name. The initials or identification code shall be unique to ensure that each pharmacist can be identified; therefore identical initials or identification codes shall not be used.

(10) The pharmacy facility [must]shall maintain copy 3 of DEA order form (Form 222) which has been properly dated, initialed and filed and all copies of each unaccepted or defective order form and any attached statements or other documents.

(11) If applicable, a hard copy of the power of attorney authorizing a pharmacist to sign DEA order forms (Form 222) [must]shall be available to the Division whenever necessary.

(12) Pharmacists or other responsible individuals shall verify that the suppliers' invoices of legend drugs, including controlled substances, are listed on the invoices and were actually received by clearly recording their initials and the actual date of receipt of the controlled substances.

(13) The pharmacy facility [must]shall maintain a record of suppliers' credit memos for controlled substances and legend drugs.

(14) A copy of inventories required under Section R156-17b-605 [must]shall be made available to the Division when requested.

(15) The pharmacy facility [must]shall maintain hard copy reports of surrender or destruction of controlled substances and legend drugs submitted to appropriate state or federal agencies.

(16) If the pharmacy includes a drop/false ceiling, the pharmacy's perimeter walls [must]shall extend to the hard deck, or other measures [must]shall be taken to prevent unauthorized entry into the pharmacy.

**R156-17b-614b. Operating Standards - Class B pharmacy designated as a Branch Pharmacy.**

In accordance with Subsections 58-17b-102(7)8 and 58-1-301(3), the qualifications for designation as a branch pharmacy include the following:

(1) The Division, in collaboration with the Board, shall approve the location of each branch pharmacy. The following shall be considered in granting such designation:

(a) the distance between or from nearby alternative pharmacies and all other factors affecting access of persons in the area to alternative pharmacy resources;

(b) the availability at the location of qualified persons to staff the pharmacy, including the physician, physician assistant or advanced practice registered nurse;

(c) the availability and willingness of a parent pharmacy and supervising pharmacist to assume responsibility for the branch pharmacy;

(d) the availability of satisfactory physical facilities in which the branch pharmacy may operate; and

(e) the totality of conditions and circumstances which surround the request for designation.

(2) A branch pharmacy shall be licensed as a pharmacy branch of an existing Class A or B pharmacy licensed by the Division.

(3) The application for designation of a branch pharmacy shall be submitted by the licensed parent pharmacy seeking such designation. In the event that more than one licensed pharmacy makes application for designation of a branch pharmacy location at a previously undesignated location, the Division in collaboration with the Board shall review all applications for designation of the branch pharmacy and, if the location is approved, shall approve for licensure the applicant determined best able to serve the public interest as identified in Subsection (1).

(4) The application shall include the following:

(a) complete identifying information concerning the applying parent pharmacy;

(b) complete identifying information concerning the designated supervising pharmacist employed at the parent pharmacy;

(c) address and description of the facility in which the branch pharmacy is to be located;

(d) specific formulary to be stocked indicating with respect to each prescription drug, the name, the dosage strength and dosage units in which the drug will be prepackaged;

(e) complete identifying information concerning each person located at the branch pharmacy who will dispense prescription drugs in accordance with the approved protocol; and

(f) protocols under which the branch pharmacy will operate and its relationship with the parent pharmacy to include the following:

(i) the conditions under which prescription drugs will be stored, used and accounted for;

(ii) the method by which the drugs will be transported from parent pharmacy to the branch pharmacy and accounted for by the branch pharmacy; and

(iii) a description of how records will be kept with respect to:

(A) formulary;

(B) changes in formulary;

(C) record of drugs sent by the parent pharmacy;

(D) record of drugs received by the branch pharmacy;

(E) record of drugs dispensed;

(F) periodic inventories; and

(G) any other record contributing to an effective audit trail with respect to prescription drugs provided to the branch pharmacy.

**R156-17b-614e. Class B - ~~Hospital Pharmacy and Emergency Department Treatment~~Dispensing Drugs from an Emergency Department and Upon Discharge from a Rural Hospital Pharmacy.**

The "Guidelines for Hospital Pharmacies and Emergency Department Treatment" document, adopted May 21, 2012, by the Division in collaboration with the Utah State Board of Pharmacy, as posted on the Division website, is the guideline or standard to be utilized by rural hospital emergency departments dispensing a short course of necessary medications to patients when a pharmacy is not open to fill their prescriptions.

**R156-17b-615. Operating Standards - Class C Pharmacy - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer in Utah.**

In accordance with Subsections 58-17b-102(4)86 and 58-17b-601(1), the operating standards for Class C pharmacies designated as pharmaceutical wholesaler/distributor and pharmaceutical manufacturer licensees includes the following:

(1) Every pharmaceutical wholesaler or manufacturer that engages in the wholesale distribution and manufacturing of drugs or medical devices located in this state shall be licensed by the Division. A separate license shall be obtained for each separate location engaged in the distribution or manufacturing of prescription drugs. Business names cannot be identical to the name used by another unrelated wholesaler licensed to purchase drugs and devices in Utah.

(2) Manufacturers distributing only their own FDA-approved prescription drugs or co-licensed product shall satisfy this requirement by registering their establishment with the Federal Food and Drug Administration pursuant to 21 CFR Part 207 and submitting the information required by 21 CFR Part 205, including any amendments thereto, to the Division.

(3) An applicant for licensure as a pharmaceutical wholesale distributor ~~must~~ shall provide the following minimum information:

(a) All trade or business names used by the licensee (including "doing business as" and "formerly known as");

(b) Name of the owner and operator of the license as follows:

(i) if a person, the name, business address, social security number and date of birth;

(ii) if a partnership, the name, business address, and social security number and date of birth of each partner, and the partnership's federal employer identification number;

(iii) if a corporation, the name, business address, social security number and date of birth, and title of each corporate officer and director, the corporate names, the name of the state of incorporation, federal employer identification number, and the name of the parent company, if any, but if a public[ly] traded corporation, the social security number and date of birth for each corporate officer shall not be required;

(iv) if a sole proprietorship, the full name, business address, social security number and date of birth of the sole proprietor and the name and federal employer identification number of the business entity;

(v) if a limited liability company, the name of each member, social security number of each member, the name of each manager, the name of the limited liability company and federal employer identification number, and the name of the state in which the limited liability company was organized; and

(c) any other relevant information required by the Division.

(4) The licensed facility need not be under the supervision of a licensed pharmacist, but shall be under the supervision of a designated representative who meets the following criteria:

(a) is at least 21 years of age;

(b) has been employed full time for at least three years in a pharmacy or with a pharmaceutical wholesaler in a capacity related to the dispensing and distribution of, and recordkeeping related to prescription drugs;

(c) is employed by the applicant full time in a managerial level position;

(d) is actively involved in and aware of the actual daily operation of the pharmaceutical wholesale distribution;

(e) is physically present at the facility during regular business hours, except when the absence of the designated representative is authorized, including but not limited to, sick leave and vacation leave; and

(f) is serving in the capacity of a designated representative for only one licensee at a time.

(5) The licensee shall provide the name, business address, and telephone number of a person to serve as the designated representative for each facility of the pharmaceutical wholesaler that engages in the distribution of drugs or devices.

(6) Each facility that engages in pharmaceutical wholesale distribution and manufacturing facilities ~~must~~ shall undergo an inspection by the Division for the purposes of inspecting the pharmaceutical wholesale distribution or manufacturing operation prior to initial licensure and periodically thereafter with a schedule to be determined by the Division.

(7) All pharmaceutical wholesalers and manufacturer ~~must~~ shall publicly display or have readily available all licenses and the most recent inspection report administered by the Division.

(8) All Class C pharmacies shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, sanitation, space, equipment and security conditions;

(c) have the ability to control temperature and humidity within tolerances required by all prescription drugs and prescription drug precursors handled or used in the distribution or manufacturing activities of the applicant or licensee;

(d) provide for a quarantine area for storage of prescription drugs and prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, opened or unsealed containers that have once been appropriately sealed or closed or in any other way unsuitable for use or entry into distribution or manufacturing;

(e) be maintained in a clean and orderly condition; and

(f) be free from infestation by insects, rodents, birds or vermin of any kind.

(9) Each facility used for wholesale drug distribution or manufacturing of prescription drugs shall:

(a) be secure from unauthorized entry;

(b) limit access from the outside to a minimum in conformance with local building codes, life and safety codes and control access to persons to ensure unauthorized entry is not made;

(c) limit entry into areas where prescription drugs, prescription drug precursors, or prescription drug devices are held to authorized persons who have a need to be in those areas;

(d) be well lighted on the outside perimeter;

(e) be equipped with an alarm system to permit detection of entry and notification of appropriate authorities at all times when the facility is not occupied for the purpose of engaging in distribution or manufacturing of prescription drugs; and

(f) be equipped with security measures, systems and procedures necessary to provide reasonable security against theft and diversion of prescription drugs or alteration or tampering with computers and records pertaining to prescription drugs or prescription drug precursors.

(10) Each facility shall provide the storage of prescription drugs, prescription drug precursors, and prescription drug devices in accordance with the following:

(a) all prescription drugs and prescription drug precursors shall be stored at appropriate temperature, humidity and other conditions in accordance with labeling of such prescription drugs or prescription drug precursors or with requirements in the USP-NF;

(b) if no storage requirements are established for a specific prescription drug, prescription drug precursor, or prescription drug devices, the products shall be held in a condition of controlled temperature and humidity as defined in the USP-NF to

ensure that its identity, strength, quality and purity are not adversely affected; and

(c) there shall be established a system of manual, electromechanical or electronic recording of temperature and humidity in the areas in which prescription drugs, prescription drug precursors, and prescription drug devices are held to permit review of the record and ensure that the products have not been subjected to conditions which are outside of established limits.

(11) Each person who is engaged in pharmaceutical wholesale distribution of prescription drugs for human use that leave, or have ever left, the normal distribution channel shall, before each pharmaceutical wholesale distribution of such drug, provide a pedigree to the person who receives such drug. A retail pharmacy or pharmacy warehouse shall comply with the requirements of this section only if the pharmacy engages in pharmaceutical wholesale distribution of prescription drugs. The pedigree shall:

(a) include all necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer, through acquisition and sale by any pharmaceutical wholesaler, until sale to a pharmacy or other person dispensing or administering the prescription drug. At a minimum, the necessary chain of distribution information shall include:

(i) name, address, telephone number, and if available, the email address of each owner of the prescription drug, and each pharmaceutical wholesaler of the prescription drug;

(ii) name and address of each location from which the product was shipped, if different from the owner's;

(iii) transaction dates;

(iv) name of the prescription drug;

(v) dosage form and strength of the prescription drug;

(vi) size of the container;

(vii) number of containers;

(viii) lot number of the prescription drug;

(ix) name of the manufacturer of the finished dose form;

and

(x) National Drug Code (NDC) number.

(b) be maintained by the purchaser and the pharmaceutical wholesaler for five years from the date of sale or transfer and be available for inspection or use upon a request of an authorized officer of the law.

(12) Each facility shall comply with the following requirements:

(a) in general, each person who is engaged in pharmaceutical wholesale distribution of prescription drugs shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of the prescription drugs. These records shall include pedigrees for all prescription drugs that leave the normal distribution channel;

(b) upon receipt, each outside shipping container containing prescription drugs, prescription drug precursors, or prescription drug devices shall be visibly examined for identity and to prevent the acceptance of prescription drugs, prescription drug precursors, or prescription drug devices that are contaminated, reveal damage to the containers or are otherwise unfit for distribution:

(i) prescription drugs, prescription drug precursors, or prescription drug devices that are outdated, damaged, deteriorated, misbranded, adulterated or in any other way unfit for distribution or use in manufacturing shall be quarantined and physically separated

from other prescription drugs, prescription drug precursors or prescription drug devices until they are appropriately destroyed or returned to their supplier; and

(ii) any prescription drug or prescription drug precursor whose immediate sealed or outer secondary sealed container has been opened or in any other way breached shall be identified as such and shall be quarantined and physically separated from other prescription drugs and prescription drug precursors until they are appropriately destroyed or returned to their supplier;

(c) each outgoing shipment shall be carefully inspected for identity of the prescription drug products or devices and to ensure that there is no delivery of prescription drugs or devices that have been damaged in storage or held under improper conditions:

(i) if the conditions or circumstances surrounding the return of any prescription drug or prescription drug precursor cast any doubt on the product's safety, identity, strength, quality or purity, then the drug shall be appropriately destroyed or returned to the supplier, unless examination, testing or other investigation proves that the product meets appropriate and applicable standards related to the product's safety, identity, strength, quality and purity;

(ii) returns of expired, damaged, recalled, or otherwise non-saleable prescription drugs shall be distributed by the receiving pharmaceutical wholesaler distributor only to the original manufacturer or a third party returns processor that is licensed as a pharmaceutical wholesaler distributor under this chapter;

(iii) returns or exchanges of prescription drugs (saleable or otherwise), including any redistribution by a receiving pharmaceutical wholesaler, shall not be subject to the pedigree requirements, so long as they are exempt from the pedigree requirement under the FDA's Prescription Drug Marketing Act guidance or regulations; and

(d) licensee under this Act and pharmacies or other persons authorized by law to dispense or administer prescription drugs for use by a patient shall be accountable for administering their returns process and ensuring that all aspects of their operation are secure and do not permit the entry of adulterated and counterfeit prescription drugs.

(13) A manufacturer or pharmaceutical wholesaler shall furnish prescription drugs only to a person licensed by the Division or to another appropriate state licensing authority to possess, dispense or administer such drugs for use by a patient.

(14) Prescription drugs furnished by a manufacturer or pharmaceutical wholesaler shall be delivered only to the business address of a person described in Subsections [R156-17b-102\(14\)\(c\)](#) and [R156-17b-615\(1\[4\]3\)](#), or to the premises listed on the license, or to an authorized person or agent of the licensee at the premises of the manufacturer or pharmaceutical wholesaler if the identity and authority of the authorized agent is properly established.

(15) Each facility shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription drug precursors and shall make inventories of prescription drugs and prescription drug precursors and required records available for inspection by authorized representatives of the federal, state and local law enforcement agencies in accordance with the following:

(a) there shall be a record of the source of the prescription drugs or prescription drug precursors to include the name and principal address of the seller or transferor and the address of the location from which the drugs were shipped;

(b) there shall be a record of the identity and quantity of the prescription drug or prescription drug precursor received, manufactured, distributed or shipped or otherwise disposed of by specific product and strength;

(c) there shall be a record of the dates of receipt and distribution or other disposal of any product;

(d) there shall be a record of the identity of persons to whom distribution is made to include name and principal address of the receiver and the address of the location to which the products were shipped;

(e) inventories of prescription drugs and prescription drug precursors shall be made available during regular business hours to authorized representatives of federal, state and local law enforcement authorities;

(f) required records shall be made available for inspection during regular business hours to authorized representatives of federal, state and local law enforcement authorities and such records shall be maintained for a period of two years following disposition of the products; and

(g) records that are maintained on site or immediately retrievable from computer or other electronic means shall be made readily available for authorized inspection during the retention period; or if records are stored at another location, they shall be made available within two working days after request by an authorized law enforcement authority during the two year period of retention.

(16) Each facility shall establish, maintain and adhere to written policies and procedures which shall be followed for the receipt, security, storage, inventory, manufacturing, distribution or other disposal of prescription drugs or prescription drug precursors, including policies and procedures for identifying, recording and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, the policies shall include the following:

(a) a procedure whereby the oldest approved stock of a prescription drug or precursor product is distributed or used first with a provision for deviation from the requirement if such deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of prescription drugs adequate to deal with recalls and withdrawals due to:

(i) any action initiated at the request of the FDA or other federal, state or local law enforcement or other authorized administrative or regulatory agency;

(ii) any voluntary action to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health, safety or welfare by replacement of existing product with an improved product or new package design;

(c) a procedure to prepare for, protect against or handle any crisis that affects security or operation of any facility in the event of strike, fire, flood or other natural disaster or other situations of local, state or national emergency;

(d) a procedure to ensure that any outdated prescription drugs or prescription drug precursors shall be segregated from other drugs or precursors and either returned to the manufacturer, other appropriate party or appropriately destroyed;

(e) a procedure for providing for documentation of the disposition of outdated, adulterated or otherwise unsafe prescription

drugs or prescription drug precursors and the maintenance of that documentation available for inspection by authorized federal, state or local authorities for a period of five years after disposition of the product;

(f) a procedure for identifying, investigating and reporting significant drug inventory discrepancies (involving counterfeit drugs suspected of being counterfeit, contraband, or suspect of being contraband) and reporting of such discrepancies within three (3) business days to the Division and/or appropriate federal or state agency upon discovery of such discrepancies; and

(g) a procedure for reporting criminal or suspected criminal activities involving the inventory of drugs and devices to the Division, FDA and if applicable, Drug Enforcement Administration (DEA), within three (3) business days.

(17) Each facility shall establish, maintain and make available for inspection by authorized federal, state and local law enforcement authorities, lists of all officers, directors, managers and other persons in charge which lists shall include a description of their duties and a summary of their background and qualifications.

(18) Each facility shall comply with laws including:

(a) operating within applicable federal, state and local laws and regulations;

(b) permitting the state licensing authority and authorized federal, state and local law enforcement officials, upon presentation of proper credentials, to enter and inspect their premises and delivery vehicles and to audit their records and written operating policies and procedures, at reasonable times and in a reasonable manner, to the extent authorized by law; and

(c) obtaining a controlled substance license from the Division and registering with the Drug Enforcement Administration (DEA) if they engage in distribution or manufacturing of controlled substances and shall comply with all federal, state and local regulations applicable to the distribution or manufacturing of controlled substances.

(19) Each facility shall be subject to and shall abide by applicable federal, state and local laws that relate to the salvaging or reprocessing of prescription drug products.

(20) A person who is engaged in the wholesale distribution or manufacturing of prescription drugs but does not have a facility located within Utah in which prescription drugs are located, stored, distributed or manufactured is exempt from Utah licensure as a Class C pharmacy, if said person is currently licensed and in good standing in each state of the United States in which that person has a facility engaged in distribution or manufacturing of prescription drugs entered into interstate commerce.

(21) No facility located at the same address shall be dually licensed as both a Class C pharmacy and any other classification of Class A or B pharmacy. Nothing within this section prevents a facility from obtaining licensure for a secondary address which operates separate and apart from any other facility upon obtaining proper licensure.

**KEY: pharmacists, licensing, pharmacies**

**Date of Enactment or Last Substantive Amendment:**  
[November 29, 2012]2013

**Notice of Continuation: February 23, 2010**

**Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)**

**Commerce, Occupational and  
Professional Licensing  
R156-69-302b  
Qualifications for Licensure -  
Examination Requirements - Dentist**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37706

FILED: 06/06/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Dentist and Dental Hygienist Licensing Board are proposing this amendment to add a periodontics section to the required examinations needed for licensure as a dentist in Utah. Some of the regional examinations are now offering candidates the option to take the periodontic portion of the examination, but are not requiring it. The purpose of this filing is to require applicants for licensure as a dentist in Utah to take the periodontic portion of the examination. The Division and Board have determined that taking this portion of the examination is important in establishing minimal competency. The Division has been receiving questions about this examination option, thus necessitating this rule clarification.

SUMMARY OF THE RULE OR CHANGE: Adds that the periodontic section is required within the regional examinations which are required for licensure as a dentist in Utah.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-69-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ LOCAL GOVERNMENTS: The proposed amendments only apply to applicants for licensure as a dentist in Utah. As a result, the proposed amendment does not apply to local governments.
- ◆ SMALL BUSINESSES: The proposed amendments only apply to applicants for licensure as a dentist in Utah. As a result, the proposed amendment does not apply to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments only apply to applicants for licensure as a dentist in Utah. As a result, the proposed amendment does not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to applicants for licensure as a dentist in Utah. There are no additional costs for applicants taking required regional examinations to include the periodontics section of the examinations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As stated in the rule analysis, this filing clarifies that any examination for licensure in dentistry must include a section covering periodontics. No associated costs to business are anticipated beyond the regular and ongoing costs examination providers incur to keep their examinations current.

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)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-69. Dentist and Dental Hygienist Practice Act Rule.  
R156-69-302b. Qualifications for Licensure - Examination  
Requirements - Dentist.**

In accordance with Subsections 58-69-302(1)(f) and (g), the examination requirements for licensure as a dentist include the periodontics section and are established as the following:

- (1) the WREB examination with a passing score as established by the WREB;
- (2) the NERB examination with a passing score as established by the NERB;
- (3) the SRTA examination with a passing score as established by the SRTA; or
- (4) the CRDTS examination with a passing score as established by the CRDTS.

**KEY: licensing, dentists, dental hygienists**

**Date of Enactment or Last Substantive Amendment: ~~July 9, 2012~~ 2013**

**Notice of Continuation: March 10, 2011**  
**Authorizing, and Implemented or Interpreted Law: 58-69-101;**  
**58-1-106(1)(a); 58-1-202(1)(a)**

**Commerce, Occupational and  
Professional Licensing  
R156-70a-304  
Continuing Education**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 37705  
 FILED: 06/06/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division and the Physician Assistant Licensing Board are proposing this amendment to combine information and clarify the current continuing education requirement for licensed physician assistants.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment deletes Subsection R156-70a-304(5) and moves the information in that subsection to Subsection R156-70a-304(1). The remaining subsections are renumbered.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-70a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendment is made effective. Any costs incurred will be absorbed in the Division's current budget.
- ◆ **LOCAL GOVERNMENTS:** The proposed amendment only applies to licensed physician assistants in Utah. As a result, the proposed amendment does not apply to local governments.
- ◆ **SMALL BUSINESSES:** The proposed amendment only applies to licensed physician assistants in Utah. As a result, the proposed amendment does not apply to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment only applies to licensed physician assistants in Utah. As a result, the proposed amendment does not apply to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendment only applies to licensed physician assistants in Utah. Since the proposed amendment is only a wording change and no changes in requirements, there are no additional costs to licensed physician assistants beyond

those presently required for obtaining of required continuing education hours.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As stated in the rule analysis, this filing makes a slight reorganization of existing language. No fiscal impact to businesses will result.

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)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-70a. Physician Assistant Practice Act Rule.  
R156-70a-304. Continuing Education.**

In accordance with Subsection 58-70a-304(1)(a), the requirements for qualified continuing professional education (CPE) are as follows:

- (1) CPE shall consist of 40 hours in each preceding two year licensure cycle. A licensee may submit documentation to the Division of current national certification by NCCPA; such certification shall be deemed to meet the requirements in this section.
- (2) A minimum of 34 hours shall be in category 1 offerings as established by the Accreditation Council for Continuing Medical Education (ACCME).
- (3) Approved providers for ACCME offerings include the following:
  - (a) approved programs sponsored by the American Academy of Physician Assistants (AAPA); or
  - (b) programs approved by other health-related continuing education approval organizations, provided the continuing education is nationally recognized by a healthcare accredited agency and the education is related to the practice as a physician assistant.
- (4) A maximum of six hours may be recognized for non-ACCME offerings of continuing education provided by the Division of Occupational and Professional Licensing. [

~~(5) Where a licensee submits documentation to the Division of current national certification by NCCPA, such certification shall be deemed to meet the requirements in Subsection (4);~~

([6]5) Continuing education under this section shall:

- (a) be relevant to the licensee's professional practice;
- (b) be prepared and presented by individuals who are qualified by education, training and experience to provide medical continuing education; and
- (c) have a method of verification of attendance and completion.

([7]6) Credit for continuing education shall be recognized in 50 minute hour blocks of time for education completed in formally established classroom courses, seminars, lectures, conferences or training sessions which meet the criteria listed in Subsection ([6]5) above).

([8]7) A licensee shall be responsible for maintaining competent records of completed continuing professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to continuing professional education and to demonstrate it meets the requirements under this section. If requested, the licensee shall provide documentation of completed continuing education.

([9]8) Continuing professional education for licensees who have not been licensed for the entire two year period will be prorated from the date of licensure.

**KEY: licensing, physician assistants**

**Date of Enactment or Last Substantive Amendment:**  
~~[September 13, 2010]~~2013

**Notice of Continuation:** December 19, 2011

**Authorizing, and Implemented or Interpreted Law:** 58-70a-101; 58-1-106(1)(a); 58-1-202(1)(a)

## Education, Administration **R277-406**

### K-3 Reading Improvement Program and the State Reading Goal

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37734

FILED: 06/14/2013

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to include provisions for the Utah State Board of Education (Board) to set uniform growth goals for local education agencies (LEAs), to add a correlation requirement, and to provide for growth goals for student learning gains.

**SUMMARY OF THE RULE OR CHANGE:** The amended rule includes requiring the Board to determine and set uniform growth goals for LEAs based on the number of third grade students reading at grade level; to add to the reporting requirement a correlation between third grade students reading on grade level and results of third grade language arts scores on a criterion-referenced test or computer adaptive test; and to include growth goals for student learning gains as measured by a benchmarked assessment, and growth goals for third grade students, year to year, as measured by the LEA's third grade reading test.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3) and Subsection 53A-17a-150(14)(a)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The amendments to the rule provide for new procedures that will be developed and administered by existing Board/Utah State Office of Education (USOE) staff and within existing USOE budgets.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. It is expected that the amendments to the rule providing for new procedures will be administered by existing LEA staff and within existing LEA budgets.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Implementation of new procedures is not required of individuals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The Board/USOE and LEAs will implement new procedures required in the rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

**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



INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277-406. K-3 Reading Improvement Program and the State Reading Goal.**

**R277-406-1. Definitions.**

A. "Benchmark assessment" means an assessment given three times each year (beginning of the year, middle of the year, and end of the year) designed to give teachers information to plan appropriate instruction, evaluate the effects of that instruction, and to provide data about the extent to which students are prepared to be successful on the end of year Criterion Referenced Test.

B. "Board" means the Utah State Board of Education.

C. "Grade level in reading" means that a student gains adequate meaning from independently reading texts designed for instruction at that grade level.

D. "LEA" means a [Utah]local education agency, including local school boards/public school districts [or]and charter schools.

E. "LEA plan" means the K-3 Reading Achievement Program Plan submitted by public school districts and public charter schools.

F. "Midpoint of school year" means January 31 of the school year.

G. "Program" means the K-3 Reading Improvement Program.

H. "Program money" means funds allocated to an LEA through the K-3 Reading Improvement Program.

I. "School plan" means the K-3 Reading Achievement Program Plan submitted by a school, including charter schools.

J. "USOE" means the Utah State Office of Education

**R277-406-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution, Article X Section 3, which vests general control and supervision over public education in the Board, by Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities, and by Section 53A-17a-150(14)(a) which directs the Board to develop rules for implementing the K-3 Reading Improvement Program.

B. The purpose of this rule is to outline the responsibilities of USOE and LEAs for implementation of Section 53A-17A-150, K-3 Reading Improvement Program, and Section 53A-1-606.5, State Reading Goal-Reading Achievement Plan.

**R277-406-3. Board/USOE Responsibilities.**

A. The USOE shall provide model Program plans.

B. The Board shall approve the Program plans submitted by LEAs pursuant to R277-406-4A.

C. The Board shall develop uniform standards for acceptable growth goals that an LEA adopts.

[E]D. The USOE shall prepare and disseminate a Program report at the end of each school year from information submitted by LEAs.

[D]E. The Board shall make a report to the Public Education Appropriations Subcommittee that includes information on:

(1) student learning gains in reading for the past school year and the previous five years;

(2) the percentage of third grade students reading on grade level in the past school year and the previous five years;

(3) progress of schools and school districts in meeting the goals in their K-3 Reading Improvement Plan(s);~~and~~

(4) correlation between third grade students reading on grade level and results of third grade language arts scores on criterion-referenced test or computer adaptive test; and

~~(4)5~~ may include recommendations on how to increase the percentage of third grade students that read on grade level.

**R277-406-4. Responsibilities of [Schools and]LEAs.**

A. To receive Program money, each elementary school or school with K-3 grade levels~~in a school district, including charter schools;~~ shall submit a school plan to its local board or charter board, and each LEA shall submit an LEA plan to the Board for reading proficiency improvement that incorporates the following components:

(1) assessment;

(2) intervention strategies;

(3) research-based best-practices;

(4) professional development for classroom teachers in kindergarten through grade three;

(5) reading performance standards;~~and~~

(6) opportunity for parents to receive materials and guidance to assist their child at home~~[-]; and~~

(7) specific measurable, gain-score goals that include:

(a) a goal of having every student reading at grade level by the end of grade three;

(b) a growth goal for each public school based on student learning gains as measured by benchmark assessments administered to increase the percentage of students who are at or above grade level at the end of third grade pursuant to Section 53A-1-603(2)d; [and]

(c) goals for kindergarten, first grade, second grade, and third grade for each public school~~[within a school district and each charter school]~~ based upon student learning gains. As of July 1, 2012 this gain score goal must be based on benchmark assessments administered pursuant to Section 53A-1-606.6~~[-]; and~~

(d) a growth goal for each public school to increase the percentage of third grade students who read on grade level from year to year as measured by the third grade reading test administered pursuant to Section 53A-1-603.

(8) reporting to parents:

(a) effective July 1, 2012, at the beginning, in the middle, and at the end of grade one, grade two, and grade three, parents shall receive their child's benchmark assessment results as required by Section 53A-1-606.6; and

(b) at the end of the third grade year, parents shall be notified whether or not the child is at grade level in reading.

B. The school plan shall be created:

(1) for schools in a district, under the direction of the school community council;

(2) for charter schools, under the direction of the charter school governing board.

C. Program money shall be used only for reading proficiency improvement and only for students in kindergarten, first grade, second grade, and third grade, and may be used to supplement but not supplant other programs.

~~D.~~ Program money may be used for:

~~(1) reading assessments[;];~~

~~(2) focused reading [remediations]interventions that have proven to significantly increase the percentage of students reading at grade level [that may]includ[e]ing the use of:~~

~~(a) reading specialists[;];~~

~~(b) tutoring[;];~~

~~(c) before or after school programs[;];~~

~~(d) summer school programs[;];~~

~~(e) the use of reading software[;];~~

~~(f) or the purchase of portable technology devices used to administer reading assessments; or~~

~~(g) the use of interactive computer software programs for literacy instruction and assessments for students.~~

~~[D]E.~~ An LEA that uses Program money in a manner that is inconsistent with these rules, Utah law, or established rules of fiscal accountability shall be directed to reimburse the Board for the amount of money improperly used or managed.

~~[E]F.~~ LEAs shall complete the report pursuant to R277-406-3~~[E]D~~ within timelines set by the USOE.

~~[F]G.~~ If for ~~three~~two consecutive years an LEA fails to meet its goal to increase the percentage of third grade students who read on grade level, the LEA shall not receive K-3 Reading Improvement Program money the following year, and an LEA shall terminate any levy imposed under Section 53A-17a-151.

~~[G]H.~~ An LEA that loses Program money due to a failure to meet its goal of increasing the percentage of third grade students at grade level may reapply for the Program money upon submission of a revised K-3 Reading Improvement Plan after one year of not receiving Program money.

~~[H]I.~~ An LEA shall provide data and information for the USOE's year-end Program report to the Public Education Appropriations Subcommittee consistent with Section 53A-17a-150(16). LEAs shall report:

(1) progress in meeting gain score goals for kindergarten, first grade, second grade, and third grade, including information from the previous five years;

(2) progress in meeting the state goal of all students at or above grade level in reading at the end of third grade, including the previous five years; and

(3) how Program money was expended, by categories of expenditure.

**KEY: reading, improvement, goals**

**Date of Enactment or Last Substantive Amendment: [~~October 11, 2011~~]2013**

**Notice of Continuation: June 10, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-150(14)(a)**

## Education, Administration R277-407-3 Classes and Activities During the Regular School Day

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37735

FILED: 06/14/2013

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Rule R277-407-3 is amended to make it consistent with H.B. 345, Expanding Access for Sixth Graders to Secondary Education, 2013 General Legislative Session. Changes to the law provide that sixth grade students may be charged school fees if students attend schools that include one or more of grades 7-12.

**SUMMARY OF THE RULE OR CHANGE:** In Section R277-407-3, language is added to allow for sixth grade students to be charged school fees if students attend schools that include one or more of grades 7-12.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-12-102(2)

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Fees may now be charged to sixth grade students if students attend schools that include one or more of grades 7-12.

◆ **LOCAL GOVERNMENTS:** There may be minimal costs to local government. Schools will have to retrain personnel and possibly adjust accounting forms to allow for sixth grade fees.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There may be costs to parents/students who attend traditionally secondary schools because fees may now be charged to those students. Costs to some parents/students are certain but an actual number of parents/students and prospective fees are too speculative at this time to determine.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Fees may now be charged to sixth grade students if students attend schools that include one or more of grades 7-12.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277-407. School Fees.**

**R277-407-3. Classes and Activities During the Regular School Day.**

A. No fee may be charged in kindergarten through sixth grades for materials, textbooks, supplies, or for any class or regular school day activity, including assemblies and field trips.

B. Textbook fees may only be charged in grades seven through twelve.

C. Fees may be charged to students in sixth grade only if the student attends a school that includes grades 7, 8, 9, 10, 11, or 12. All school and school district materials and information, including local board-approved fees and parent information, shall include notice that fees may be charged to sixth graders and fee waiver requirements apply.

[C]D. If a class is established or approved which requires payment of fees or purchase of materials, tickets to events, etc., in order for students to participate fully and to have the opportunity to acquire all skills and knowledge required for full credit and highest grades, the class shall be subject to the fee waiver provisions of R277-407-6.

[D]E. Students of all grade levels may be required to provide materials for their optional projects, but a student may not be required to select an optional project as a condition for enrolling in or completing a course. Project-related courses must be based upon projects and experiences that are free to all students.

[E]E. Schools shall provide school supplies for K-6 students. A student may, however, be required to replace supplies provided by the school which are lost, wasted, or damaged by the student through careless or irresponsible behavior.

[F]G. An elementary school or teacher may provide to parents or guardians a suggested list of supplies. The suggested list shall contain the express language in Section 53A-12-102(2)(c).

[G]H. Secondary students may be required to provide their own student supplies, subject to the provisions of Section R277-407-6.

**KEY: education, school fees**  
**Date of Enactment or Last Substantive Amendment: [~~October 9, 2012~~2013**  
**Notice of Continuation: August 14, 2012**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-12-102; 53A-12-201; 53A-12-204; 53A-11-806(2); Doe v. Utah State Board of Education, Civil No. 920903376**

**Education, Administration**  
**R277-422-3**  
**Requirements and Timelines for State-Supported Voted Local Levy**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 37736  
 FILED: 06/14/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-422-3 is amended to make it consistent with requirements in H.B. 49, Voted and Board Levy Programs Amendments, 2013 General Legislative Session, and recent audit findings and suggestions.

SUMMARY OF THE RULE OR CHANGE: The amendments provide changes to Subsection R277-422-3(D) to increase the state guarantee under these programs to a level which would allocate to school districts any prior year carry-over balances under the Voted and Board Local Levy Programs.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(e)

- ANTICIPATED COST OR SAVINGS TO:
- ♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The amendment to the rule applies to school districts.
  - ♦ LOCAL GOVERNMENTS: There may be more local funding based on the state appropriation.
  - ♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendment apply to public education and do not affect businesses.
  - ♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The amendment to the rule applies to school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts may participate in the program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277-422. State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program.**

**R277-422-3. Requirements and Timelines for State-Supported Voted Local Levy.**

A. A local board may establish a state-supported voted local levy program following an election process that approves a special tax. The election process is provided for under Section 53A-17a-133(2).

B. Local boards which have approved voted local levy or voted leeway programs since 1965 may set an annual fiscal year fixed tax rate levy for the voted local levy equal to or less than the levy authorized by the election.

C. A school district may budget an increased amount of ad valorem property tax revenue from a voted local levy in addition to revenue from new growth without required compliance with the advertisement requirements if the voted local levy is or was approved:

(1) on or after January 1, 2003;

(2) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax; and

(3) for a voted local levy approved or modified on or after January 1, 2009, the proposition submitted to the voters contains the following statement: A vote in favor of this tax means that (name of school district) may increase revenue from this property tax without advertising the increase for the next five years.

D. ~~[The state provides state guarantee funds to support the district voted local levy according to the amount specified in Section 53A-17a-133(3) and the Board local levy according to the amount specified in Section 53A-17a-164(3).]Any prior year voted and board local funding balance shall be used to increase the current~~

guarantee for the board and voted local levy programs. Funding shall be distributed based on the increased guarantee per WPU.

E. State and local funds received by a local board under the voted local levy program are unrestricted revenue and may be budgeted and expended within the school district's general fund.

F. In order to receive state support for an initial voted local levy tax rate, a local board shall receive voter approval no later than December 1 prior to the commencement of the fiscal year of implementation of that initial voted local levy tax rate.

G. If a school district qualifies for state support the year prior to an increase in its existing voted local levy; and:

(1) does not receive voter approval for an increase after June 30 of the previous fiscal year and before December 2 of the previous fiscal year; and

(2) intends to levy the additional rate for the fiscal year starting the following July 1; then

(3) the district shall only receive state support for the existing voted local levy tax rate and not the additional voter-approved tax rate for the fiscal year commencing the following July 1, and

(4) shall receive state support for the existing and additional voter-approved tax rate for each year thereafter, as long as the district qualifies to receive state support.

**KEY: education, finance**

**Date of Enactment or Last Substantive Amendment:**  
~~[December 17, 2012]2013~~

**Notice of Continuation: October 5, 2012**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(f); 53A-1-401(3); 53A-17a-133; 53A-17a-164; 53A-17a-150; 53A-17a-151; 59-2-919**

Education, Administration  
**R277-445-3**  
Standards

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 37737  
FILED: 06/14/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section R277-445-3 is amended to make is consistent with requirements in H.B. 173, Necessarily Existent Small Schools Funding, 2013 General Legislative Session.

**SUMMARY OF THE RULE OR CHANGE:** The amendments provide changes to Subsection R277-445-4(B) for the Utah State Board of Education (Board) to allocate to school districts any prior year carry-over balances in the Necessarily Existent Small Schools Program. Additionally, funds will be distributed using a formula adopted by the Board that considers the tax effort of a local school board.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-17a-109(3) and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The amendment to the rule applies to school districts.

◆ LOCAL GOVERNMENTS: There may be more local funding based on the distribution from the state.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to person other than small businesses, businesses, or local government entities. The amendment to the rule applies to school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Schools designated as necessarily existent small schools may participate in the program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277-445. Classifying Small Schools as Necessarily Existent.**

**R277-445-3. Standards.**

A. A school may be classified as necessarily existent if it meets the following standards:

(1) the average daily membership for the school does not exceed:

(a) 160 for elementary schools, including kindergarten at a weighting of .55 per average daily membership; or

(b) 300 for one or two-year secondary schools; or

(c) 450 for three-year secondary schools; or

(d) 500 for four-year secondary schools; or

(e) 600 for six-year secondary schools.

(2) the school meets the criteria of Subsection 3(A)(1) and one-way bus travel over Board approved bus routes for any student from the assigned school to the nearest school within the district of the same type requires:

(a) students in kindergarten through grade six to travel more than 45 minutes;

(b) students in grades seven through twelve to travel more than one hour and 15 minutes.

(3) the school meets the criteria of Subsection 3(A)(1) for grades K-6 if it is an elementary school or grades 7-12 if it is a secondary school except as provided below:

(a) schools with less than six grades are not recognized as necessarily existent small schools if it is feasible in terms of school plant to consolidate them into larger schools and if consolidated would not meet the criteria listed in Subsections 3(A)(1) and 3(A)(2) above;

(b) a secondary complex or attendance area which when analyzed on a 7-12 grade basis, meets the criteria of necessarily existent, shall not have its qualifying status invalidated by a reorganization pattern determined by a district;

(c) in unusual circumstances, where in the judgment of a panel of at least five USOE staff members designated by the Superintendent, the existing conditions warrant approval of a middle school, such a school may be designated by the Superintendent as a necessarily existent small school, provided it meets the criteria listed in Subsection 3(A)(1) above or 3(A)(4) below.

(4) the school meets the criteria of Subsection 3(A)(1), may not meet the criteria of Subsection 3(A)(2), but is in a district which has been consolidated to the maximum extent possible, and activities in cooperation with neighboring districts within or across county boundaries are appropriately combined;

(5) the school meets the criteria of Subsection 3(A)(1), does not meet the criteria of Subsections 3(A)(2), but there is evidence acceptable to the Superintendent of increased growth in the school sufficient to take it out of the small school classification within a period of three years.

(a) The school may be classified as necessarily existent until its ADM surpasses the size standard for small schools of the same type.

(b) The school's ADM shall be annually compared to the school's projected ADM to determine increases or decreases in enrollment.

(c) An increase in the school's ADM shall be 80 percent of the projected annual increase. If the assessment for the first or second year shows the increase in the ADM is less than 80 percent, the school shall no longer be classified as necessarily existent;

(6) the school meets both the criteria of Subsection 3(A)(1) and at least the accredited with comment level of Board accreditation standards (as provided in R277-410, R277-411, and R277-412), does not meet the criteria of Subsections 3(A)(2), 3(A)(3), 3(A)(4), or 3(A)(5), but there is evidence as determined by the

Superintendent that consolidation may result in undesirable social, cultural, and economic changes in the community, and:

(a) the school has a safe and educationally adequate school facility with a life expectancy of at least ten years, as judged, at least every five years, by the USOE after consultation with the district; or

(b) the district shall incur construction costs by combining a school seeking necessarily existent small school status with an existing school and such construction and land costs exceed the insurance replacement value of the exiting school by 30 percent. The existing school shall have a life expectancy of at least ten years. In the event that the ADM from the school seeking necessarily existent small school status when combined with the ADM at the existing school exceed criteria in R277-445-3A(1), the existing school would be disqualified.

(c) schools qualifying under standard (b) above shall be evaluated every five years.

(7) the school meets the criteria of Subsection 3(A)(1), does not meet the criteria of Subsections 3(A)(2), 3(A)(3), 3(A)(4), 3(A)(5), or 3(A)(6), and the removal of the necessarily existent status results in capital costs which the school district cannot meet within three years when utilizing all funds available from local, state, or federal sources or a combination of the sources.

B. Any prior year funding balance in the Necessarily Existent Small Schools Program shall be distributed by the USOE in the current year using a formula that considers the tax effort of a local board of education.

~~B~~C. Additional WPU funds allocated to school districts for necessarily existent small schools shall be utilized for programs at the school for which the units were allocated. The funds must supplement and not supplant other funds allocated to special schools by the local board of education.

~~D~~D. Schools shall be classified after consultation with the district and in accordance with applicable state statutes and Board standards.

**KEY: school enrollment, educational facilities**

**Date of Enactment or Last Substantive Amendment: [~~April 8,~~ 2013**

**Notice of Continuation: August 14, 2012**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-109(~~1~~3)**

## Education, Administration **R277-477**

### Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program

#### NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 37738

FILED: 06/14/2013

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is repealed and reenacted to provide for consistency with H.B. 306, School LAND Trust Program Amendments, passed in the 2013 General Legislative Session. The change removes repetitive language, and provides clarification.

**SUMMARY OF THE RULE OR CHANGE:** The reenacted rule provides for charter school trust land councils; revises the funding formula; deletes repetitive language; clarifies additional allowable expenditures and additional prohibited expenditures under the academic definition; specifies the duties for chartering entities; specifies the duties for approving entities that review plans; clarifies the compliance review process; and clarifies the audit committee's scope in requiring corrective action after compliance review.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3) and Subsection 53A-16-101.5(3)(c)

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The revision to the funding formula affects schools.

♦ **LOCAL GOVERNMENTS:** School districts/traditional schools may receive less funding with a new formula. The funding formula is changed to allow charter schools to receive School LAND Trust funds more consistent with their student numbers and traditional schools. Generally, charter schools will receive more money and traditional schools will receive less.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public schools and do not affect businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the funding formula affect schools.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Schools will receive School LAND Trust Program funding consistent with this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

**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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

~~[R277-477. Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program.~~

**R277-477-1. Definitions.**

~~A. "Board" means the Utah State Board of Education. The Board is the primary beneficiary representative and advocate for beneficiaries of the School Trust corpus and the School LAND Trust Program.~~

~~B. "Charter Trust Land Committee" means the governing board of the charter school consistent with Section 53A-16-101.5.~~

~~C. "Fall Enrollment Report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report from the previous year.~~

~~D. "Funds" means interest and dividend income as defined under Section 53A-16-101.5(2).~~

~~E. "Interest and Dividends Account" means a restricted account within the Uniform School Fund created under Section 53A-16-101 established to collect interest and dividends from the permanent State School Fund until the end of the fiscal year at which time the funds are distributed to school districts, charter schools and the USDB through the School LAND Trust Program.~~

~~F. "Local board of education" means the locally-elected board designated in Section 53A-3-101 that makes decisions and directs the actions of local school districts and is directed in Section 53A-16-101.5(5)(b) to approve School LAND Trust plans for schools under the local board's authority.~~

~~G. "Most critical academic needs" for purposes of this rule means academic needs identified in the school improvement plan developed in accordance with Section 53A-1a-108.5.~~

~~H. "School Children's Trust Section" means employees who report to the Superintendent or Superintendent's designee and have responsibilities as outlined in Sections 53A-16-101.5 and 53A-16-101.6.~~

~~I. "School community council" means the council organized at each school district public school as established in Section 53A-1a-108 and R277-491. The council includes the principal, school employee members and parent members. There shall be at least a two-parent member majority.~~

~~J. "State Charter School Board (SCSB)" means the board designated under Section 53A-1a-501.5 that has responsibility for making recommendations regarding the welfare of charter schools to the Board and the board that has responsibility to approve School LAND Trust plans for charter schools. The SCSB has primary~~

~~responsibility to provide training and oversight for charter school School LAND Trust plans.~~

~~K. "State Superintendent of Public Instruction (Superintendent)" means the individual appointed by the Board as provided for in Section 53A-1-301(1) to administer all programs assigned to the Board in accordance with the policies and the standards established by the Board.~~

~~L. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report of the school district, charter school, or USDB.~~

~~M. "USDB" means the Utah Schools for the Deaf and the Blind.~~

~~N. "USOE" means the Utah State Office of Education.~~

**R277-477-2. Authority and Purpose.**

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by Section 53A-16-101.5(3)(c) which allows the Board to adopt rules regarding the time and manner in which the student count shall be made for allocation of school trust land funds, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to:~~

~~(1) provide direction in the distribution of interest and dividends from the Interest and Dividends Account created in Section 53A-16-101 and funded in Section 53A-16-101.5(2) through school districts;~~

~~(2) provide for appropriate and adequate oversight of the expenditure and use of School LAND Trust monies by designated local boards of education, the SCSB, and the Board;~~

~~(3) provide for:~~

~~(a) review and monitoring of funds and revenue generated by school trust lands;~~

~~(b) compliance by councils with requirements in statute and Board rule; and~~

~~(c) allocation of the monies as provided in Section 53A-16-101.5(3)(c) based on student count.~~

~~(4) define the roles, duties, and responsibilities of the School Children's Trust Section within the USOE.~~

**R277-477-3. Distribution of Funds -- Determination of Proportionate Share.**

~~A. Funds shall be distributed to school districts and charter schools as provided under Section 53A-16-101.5(3)(a). The distribution shall be based on the state's total fall enrollment as reflected in the audited October 1 Fall Enrollment Report from the previous school year.~~

~~B. Each school district and the USOE, with regard to charter schools and the USDB, shall distribute funds received under R277-477-3A to each school within each school district or to each charter school and USDB on an equal per student basis within a school district.~~

~~C. Local boards of education and the USOE may adjust distributions, maintaining an equal per student distribution within a school district for school openings and closures and for boundary changes occurring after the audited October 1 Fall Enrollment Report of the prior year.~~

~~D. All school district public schools receiving funds shall have a school community council as required by Sections 53A-1a-~~

108 and R277-491; funds shall be used to enhance or improve a school's academic excellence consistent with Section 53A-16-101.5. Plans shall be approved by the local board of education. Required school community council-generated plans or programs include:

- \_\_\_\_\_ (1) School Improvement Plan;
- \_\_\_\_\_ (2) School LAND Trust Program;
- \_\_\_\_\_ (3) Reading Achievement Plan (for elementary schools)
- \_\_\_\_\_ (4) Professional Development Plan;
- \_\_\_\_\_ (5) Child Access Routing Plan (for elementary, junior high and middle schools); and
- \_\_\_\_\_ (6) Recommendations regarding school/school district programs and community environment.

\_\_\_\_\_ E. All charter schools that elect to receive School LAND Trust funds shall have a charter trust lands committee.

\_\_\_\_\_ F. The plan shall be electronically submitted to the USOE on the School LAND Trust Program website.

\_\_\_\_\_ G. All charter schools shall be considered collectively as a school district to receive a base amount under Section 53A-16-101.5(3)(a)(i).

\_\_\_\_\_ H. The USDB shall receive the average statewide per pupil amount, multiplied by the audited fall enrollment total, as the USDB annual allocation.

\_\_\_\_\_ I. In order to receive its allocation, a school shall satisfy the requirements of Section 53A-16-101.5(4-7).

\_\_\_\_\_ J. Plans shall include measurable academic goals, specific steps to meet those goals, measurements to assess improvement and specific expenditures to implement plans for student academic improvement consistent with Section 53A-16-101.5(5).

\_\_\_\_\_ K. As part of the school plan submission:

\_\_\_\_\_ (1) principals shall provide a signed assurance form affirming that the membership of the school community council and the process used for election and appointment of members to the council was made consistent with Sections 53A-1a-108, 53A-16-101.5, and R277-491; and

\_\_\_\_\_ (a) The form shall be scanned and uploaded by principals or school districts to the School LAND Trust website database.

\_\_\_\_\_ (b) The school district shall review the signed principal assurance forms for the schools in their school district and certify that the correct form has been entered, signed and displays the required completed information for each school in the school district. Any school that does not comply shall be noted in the school district certification. The certification shall be completed on the school district page of the School LAND Trust website before school districts may approve school plans for the upcoming school year.

\_\_\_\_\_ (2) The School LAND Trust plan shall include a record of the vote by the school community council when the school plan was approved including the date of the vote, votes for, against, and absent, consistent with Section 53A-16-101.5.

\_\_\_\_\_ (3) A form that includes the names of members of the school community or charter trust land committee shall be signed by members of the council or committee to indicate their involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year. The form shall be uploaded to the database by the principal or school district employee.

\_\_\_\_\_ L. In accordance with R277-477-3D, income from the Interest and Dividends Account shall be distributed to school districts, USDB, and charter schools beginning in July each fiscal

year based on deposits to the Interest and Dividends Account within the Uniform School Fund from the prior fiscal year.

\_\_\_\_\_ M. If a school chooses not to apply for School LAND Trust Program funds and meet the requirements for receiving funds, the funds allocated for that school shall be retained at USOE and included with the statewide distribution for the following school year.

\_\_\_\_\_ N. Local boards of education or the SCSB shall consider plans annually and may approve or disapprove a school plan. If a plan is not approved, the local board or the chartering entity shall provide a written explanation of why the plan was not approved and request a revised plan for reconsideration, consistent with Section 53A-16-101.5.

\_\_\_\_\_ O. Local boards shall ensure timely distribution of the funds to schools with approved plans.

\_\_\_\_\_ P. When approving school plans on the School LAND Trust Program website, school district and charter school personnel shall report the meeting date(s) when the local board of education or the SCSB approved the plans.

\_\_\_\_\_ Q. Funds not used in the school approved plan may be carried over by the school to the next school year and added to the School LAND Trust Program funds available for expenditure in that school the following year. Schools shall provide an explanation for any carry over that exceeds one-tenth of the school's allocation in the school plan or report.

\_\_\_\_\_ R. School LAND Trust Program funds shall be focused on the school's most critical academic needs.

\_\_\_\_\_ S. School LAND Trust Program funds shall be focused on implementing a recommended course of action to enhance or improve student academic achievement and implement a component of the school improvement plan focused on the school's identified most critical academic needs, as explained in Section 53A-1a-108.5 and Section 53A-16-101.5(5).

\_\_\_\_\_ T. Examples of successful programs using School LAND Trust Program monies include activities such as:

- \_\_\_\_\_ (1) credit recovery courses and programs;
- \_\_\_\_\_ (2) study skills classes;
- \_\_\_\_\_ (3) college entrance exam preparation classes;
- \_\_\_\_\_ (4) academic field trips;
- \_\_\_\_\_ (5) classroom equipment and materials such as flashcards, math manipulatives, calculators, microscopes, maps, books, or student planners;
- \_\_\_\_\_ (6) teachers and teacher aides;
- \_\_\_\_\_ (7) professional development directly tied to school academic goals;
- \_\_\_\_\_ (8) student focused educational technology;
- \_\_\_\_\_ (9) books and textbooks.

\_\_\_\_\_ U. Examples of programs or activities ineligible for School LAND Trust Program funding include school climate, security, behavior, bullying prevention, audio-visual systems in non-classroom locations, non-academic field trips, food and drink for council meetings or parent nights, printing and mailing costs for notices to parents, office administrative costs, athletic or intermural programs, and programs that initiate or support other non-academic school purposes.

\_\_\_\_\_ V. Schools serving students with disabilities may use funds as needed to directly influence and improve student performance according to the student Individual Education Plans (IEPs), consistent with R277-491-6E.



~~W. The School Children's Trust Section of the USOE shall create and electronically post training and support materials for school community councils, charter trust land committees and local school boards.~~

~~X. Funds from the School LAND Trust Program that are expended inconsistent with the requirements and academic intent of the law, inconsistent with R277-477 or R277-491 and inconsistent with the school board/charter board approved plan shall be reduced or eliminated by the Board in subsequent years.~~

~~Y. The Board may recommend that School LAND Trust Program funds be reduced or eliminated if the school has failed to comply with Section 53A-1a-108 in the election or appointment of school community council members.~~

~~Z. Public schools that are secure facilities, juvenile detention facilities, hospital program schools, and other small special programs may receive School LAND Trust funds available to schools with a school community council if they demonstrate and document a good faith effort to recruit council members, have meetings and publicize results as recognized and affirmed by local boards of education.~~

~~AA. Plans submitted by charter schools shall be prepared, submitted and approved by the charter trust land committee established in R277-470-11, and then submitted first to the local charter school board, then to the local board of education for approval, if the school is chartered by the school district, or to the SCSB if the school is chartered by the Board.~~

~~BB. Plans submitted by the USDB governing board shall be reviewed and approved by the State Superintendent or designee.~~

~~CC. A designated amount appropriated by the Legislature from the Interest and Dividends Account shall be used to fund the administration of the program and other duties outlined in this rule, Sections 53A-16-101.5 and 53A-16-101.6 of the School Children's Trust Section.~~

~~DD. Any unused balance initially allocated for School LAND Trust Program administration shall be deposited in the Interest and Dividends Account for future distribution to schools in the School LAND Trust Program.~~

**R277-477-4. Administration of School LAND Trust Program.**

~~A. There is established a School Children's Trust Section within the USOE. The Section staff shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under the Utah Enabling Act, the Utah Constitution, state statute and standard trust principles described in Section 53C-1-102.~~

~~B. The Board appoints the director of the School Children's Trust Section, in accordance with Section 53A-16-101.6.~~

~~C. Under the direction of the Superintendent, the Section staff shall:~~

~~(1) promote productive use of school and institutional trust lands;~~

~~(2) provide representation, advocacy, and information:~~

~~(a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;~~

~~(b) on federal, state and local land decisions and policies that affect the trust;~~

~~(c) to the School and Institutional Trust Lands Administration, the School and Institutional Trust Lands Board of~~

~~Trustees, the Legislature, the state treasurer, the attorney general, the public, and other entities as determined by the section.~~

~~(3) provide independent oversight on the prudent and profitable management of the trust and report annually to the Board and the Legislature;~~

~~(4) provide information requested by a person or entity described in R277-477-4C(2)(e);~~

~~(5) provide support to local boards of education, to the SCSB and to local charter trust land committees, as direct by the Superintendent;~~

~~(6) advise and assist the Board and the Superintendent, as requested, in informing and providing support or support services to school community councils, schools, school districts, and other education groups to advocate on behalf of public education on federal, state, and local land decisions and policies as they affect school funding and the long term growth of the permanent State School Fund as directed by the Superintendent or the Superintendent's designee.~~

~~D. Support services shall include:~~

~~(1) Regional training and, as requested and to the extent of resources available, school district or school training for school community councils;~~

~~(2) Training materials to support school community councils in creating and reviewing school improvement plans, School LAND Trust plans, reading achievement plans, professional development plans, and child access routing plans for both elementary and secondary schools.~~

~~(3) Providing materials, suggested practices and plans for use by community councils and charter trust land committees to:~~

~~(a) increase community and parent awareness and knowledge of community councils;~~

~~(b) increase community and parent knowledge about school trust lands and their history and purpose in generating funds for public schools;~~

~~(c) encourage parent participation in developing plans for local board approval for the use of School LAND Trust allotments.~~

~~(4) Monitoring development of School LAND Trust plans and assist local community councils and charter trust land committees with plan development as requested, and monitor expenditures and compliance with statutory requirements. Assistance/monitoring may include providing:~~

~~(a) timely notification of annual School LAND Trust allotments to public schools;~~

~~(b) clear and timely notification of required timelines for plan submission;~~

~~(c) periodic, cost-effective and scheduled review of submitted school plan consistency and plan expenditures and results;~~

~~(d) web postings and other information regarding school community council and charter trust land committees.~~

~~(5) Receiving direction from the Superintendent as it provides monitoring and review.~~

~~(6) Monitoring and review shall be accomplished primarily through:~~

~~(a) written/electronic assurances from school community councils and charter school trust land committees;~~

~~(b) written/electronic submission of information from local school boards and charter schools and random and selective compliance reviews of School LAND Trust expenditures;~~

~~(c) the execution of School LAND Trust plans; and~~  
~~(d) other school community council requirements.~~

~~(7) A report annually to the Board on compliance review findings and other compliance issues. The Board shall make determinations regarding reduction or elimination of all or a portion of a school's School LAND Trust Program funding in subsequent years, following review and consideration of compliance and financial reviews conducted by the School Children's Trust Section and results of a Legislative Auditor's school community council election review process, and make a report to the Public Education Appropriation Subcommittee.~~

~~(8) Receiving direction from the Superintendent to provide oversight and expertise regarding the School LAND Trust account and all related activities. Oversight and activities may include:~~

~~(a) attending meetings where school trust land, permanent fund, and school community council issues are discussed and voted on;~~

~~(b) providing information to federal, state and local government agencies, the general public, Congress, and the Legislature regarding school trust lands, the trust revenues and expenditure of revenues;~~

~~(c) reviewing and providing information as representatives of the Superintendent to the Congress, Legislature, boards, state and federal agencies and employees that have responsibility for managing school trust lands, maximizing trust land revenues, and investing the permanent State School Fund prudently;~~

~~(d) increasing and strengthening beneficiary monitoring; and~~

~~(e) other activities or assignments as directed by the Superintendent.~~

~~E. The president of each local board of education or of each local charter board shall ensure that the members of the board are provided with annual training on the requirements of the School LAND Trust Program. Notice of training shall be provided to the USOE School Children's Trust Section before school districts mark plans as approved on the School LAND Trust website following local board approval.~~

~~F. A local school board shall comply with Section 53A-1a-108(10) and provide required copies of the Utah Code to school community council members.~~

#### **R277-477-5. Information to USOE.**

~~A. Information on each school's plan to address most critical academic needs shall be completed via the School LAND Trust Program website maintained through the USOE for accurate and uniform reporting.~~

~~B. To facilitate submission of information by schools, each school board shall establish a school district submission date for the school district schools not later than May 15 of each year.~~

~~C. Timelines shall allow for school committee reconsideration and editing of the school plan following local board of education or SCSB requested changes.~~

~~D. USOE staff may visit schools receiving funds from the School LAND Trust Program as directed by the Superintendent to discuss the program, receive information and suggestions, provide training, and answer questions.~~

~~E. School districts and charter schools wishing to submit information to the School LAND Trust website through a comprehensive electronic plan shall meet the parameters for programming and data entry required by the USOE. They shall review School LAND Trust plans on the USOE website prior to local board of education or SCSB approval to ensure information consistent with the law has been downloaded by individual schools into the electronic plan visible on the School LAND Trust Program website.~~

~~F. Charter school and school district business administrators shall enter financial data relating to the School LAND Trust Program on the School LAND Trust Program website at the time they prepare and submit Annual Program Report (APR) data to the USOE. The appropriate data shall appear in the final reports submitted online by school community councils for reporting to parents as required in Section 53A-1a-108.~~

~~G. The financial data shall include:~~

~~(1) the annual distribution received by each school (the sum of the distributions to schools within a school district equals the total distributed to the school district by the USOE);~~

~~(2) expenditures by category made by each school from revenues received from the School LAND Trust in the prior fiscal year.~~

~~H. Expenditures made after the close of the fiscal year shall be accounted for as expenditures in the following fiscal year.~~

~~I. The financial report in each school final report shall be consistent with the narrative submitted by that school community council or charter committee.]~~

#### **R277-477. Distribution of Funds from the Interest and Dividend Account and Administration of the School LAND Trust Program.**

##### **R277-477-1. Definitions.**

~~A. "Approving Entity" means the school district, University, or other legally authorized entity that approves or rejects plans for a district or charter school.~~

~~B. "Board" means the Utah State Board of Education. The Board is the primary beneficiary representative and advocate for beneficiaries of the School Trust corpus and the School LAND Trust Program.~~

~~C. "Chartering Entity" means the school district, Board, university, or other entity authorized to charter a charter school.~~

~~D. "Charter trust land council" means a council comprised of a two person majority of elected parents or guardians of students attending the charter school and may include other members, as determined by the board of the charter school. The governing board of a charter school may serve as a charter trust land council if the board membership includes at least two more parents or guardians of students currently enrolled at the school than all other members combined consistent with Section 53A-16-101.5. If not, the board of the charter school shall develop a school policy governing the election of a charter trust land council. R277-491 does not apply to charter trust land councils.~~

~~E. "Councils" means school community councils and charter trust lands councils.~~

~~F. "Fall enrollment report" means the audited census of students registered in Utah public schools as reported in the audited October 1 Fall Enrollment Report from the previous year.~~

G. "Funds" means interest and dividend income as defined under Section 53A-16-101.5(2).

H. "Interest and Dividends Account" means a restricted account within the Uniform School Fund created under Section 53A-16-101 established to collect interest and dividends from the permanent State School Fund until the end of the fiscal year. The funds are distributed to school districts, charter schools and the USDB through the School LAND Trust Program at the beginning of the next fiscal year.

I. "Local board of education" means the locally-elected board designated in Section 53A-3-101 that makes decisions and directs the actions of local school districts and is directed in Section 53A-16-101.5(5)(b) to approve School LAND Trust plans for schools under the local board's authority.

J. "Most critical academic needs" for purposes of this rule means academic needs identified in an individual school's improvement plan developed consistent with Section 53A-1a-108.5 or identified in the school charter.

K. "School Children's Trust Section" means employees who report to the State Superintendent of Public Instruction (Superintendent) or Superintendent's designee and have responsibilities as outlined in Sections 53A-16-101.5 and 53A-16-101.6.

L. "School community council" means the council organized at each school district public school as established in Section 53A-1a-108 and R277-491. The council includes the principal, school employee members and parent members. There shall be at least a two parent member majority.

M. "State Charter School Board (SCSB)" means the board designated under Section 53A-1a-501.5 that has responsibility for making recommendations regarding the welfare of charter schools to the Board.

N. "State Superintendent of Public Instruction (Superintendent)" means the individual appointed by the Board as provided for in Section 53A-1-301(1) to administer all programs assigned to the Board in accordance with the policies and the standards established by the Board.

O. "Student" means a child in public school grades kindergarten through twelve counted on the audited October 1 Fall Enrollment Report of the school district, charter school, or USDB.

P. "USDB" means the Utah Schools for the Deaf and the Blind.

Q. "USOE" means the Utah State Office of Education.

### **R277-477-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by Section 53A-16-101.5(3)(c) which allows the Board to adopt rules regarding the time and manner in which the student count shall be made for allocation of school trust land funds, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to:

(1) provide financial resources to public schools to enhance or improve student academic achievement and implement an academic component of the school improvement plan;

(2) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school;

(3) provide direction in the distribution from the Interest and Dividends Account created in Section 53A-16-101 and funded in Section 53A-16-101.5(2);

(4) provide for appropriate and adequate oversight of the expenditure and use of School LAND Trust monies by designated local boards of education, chartering entities, and the Board;

(5) provide for:

(a) reviewing and monitoring of funds and revenue generated by school trust lands and the permanent State School Fund;

(b) compliance by councils with requirements in statute and Board rule; and

(c) allocation of the monies as provided in Section 53A-16-101.5(3)(c) based on student count.

(6) define the roles, duties, and responsibilities of the School Children's Trust Section within the USOE.

### **R277-477-3. Distribution of Funds - Local Board or Local Charter Board Approval of School LAND Trust Plans.**

A. All public schools receiving School LAND Trust Program funds shall have a council as required by Sections 53A-1a-108 and R277-491, a charter school trust lands council as required in 53A-16-101.5 (7), or have a local board approved exemption under R277-491-3(C). District public schools and charter schools shall submit a Principal Assurance Form, as described in R277-491(5)(a).

B. All charter schools that elect to receive School LAND Trust funds shall have a charter trust lands council, develop an academic plan in accordance with the school charter, and report the date when the charter trust lands council and charter board approved the plan. Plans shall be submitted on the School LAND Trust Program website no later than May 1.

C. Local boards of education or the other approving entity shall consider plans annually and may approve or disapprove a school plan. If a plan is not approved, the approving entity shall provide a written explanation of why the plan was not approved and request a revised plan for reconsideration, consistent with Section 53A-16-101.5.

D. Information on each school's plan to address most critical academic needs shall be completed via the School LAND Trust website maintained through the USOE for accurate and uniform reporting.

E. Plans shall be electronically submitted to the USOE on the School LAND Trust Program website, including a record of the vote by the school community council or charter trust land council when the school plan was approved including the date of the vote, votes for, against, and absent, consistent with Section 53A-16-101.5.

F. To facilitate submission of information by schools, each school board shall establish a school district submission date for the school district schools not later than May 1 of each year. Timelines shall allow for school committee reconsideration and amendment of the school plan following local board of approving entity explanation or plan rejection.

G. Funds shall only be distributed to schools with plans approved by the approving entity.

H. Prior to distribution of funds, the School Children's Trust Section shall ensure that plans include academic goals, specific steps to meet those goals, measurements to assess

improvement and specific expenditures focused on student academic improvement. Funds shall not be distributed until schools have an approved plan to use their funds to enhance or improve a school's academic excellence consistent with Section 53A-16-101.5 and R277-477. For charter schools, the School Children's Trust Section shall provide notice to the SCSB of changes required of charter schools for compliance with state law and Board rule.

I. Examples of successful plans using School LAND Trust Program monies include programs focused on:

- (1) credit recovery courses and programs;
- (2) study skills classes;
- (3) college entrance exam preparation classes;
- (4) academic field trips;
- (5) classroom equipment and materials such as flashcards, math manipulatives, calculators, microscopes, maps or books;
- (6) teachers, teacher aides, and student tutors;
- (7) professional development directly tied to school academic goals;
- (8) student focused educational technology, including hardware and software, computer carts and work stations;
- (9) books, textbooks, workbooks, library books, bookcases, and audio-visual materials;
- (10) student planners; and
- (11) nominal student incentives that are academic in nature or of marginal total cost.

I. Examples of plans ineligible for School LAND Trust Program funding include, but are not limited to:

- (1) security;
- (2) phone, cell phone, electric, and other utility costs;
- (3) behavior, character education, bullying prevention;
- (4) sports and playground equipment;
- (5) athletic or intermural programs;
- (6) extra-curricular non-academic expenditures;
- (7) audio-visual systems in non-classroom locations;
- (8) non-academic field trips;
- (9) food and drink for council meetings or parent nights;
- (10) printing and mailing costs for notices to parents;
- (11) accreditation, administrative, clerical, or secretarial costs;
- (12) cash or cash equivalent incentives for students;
- (13) other furniture; and
- (14) staff bonuses.

J. Schools serving students with disabilities may use funds as needed to directly influence and improve student performance according to the students' Individual Education Plans (IEPs).

K. The school trust is intended to benefit all of Utah's school children. Councils are encouraged to design and implement plans in a way to benefit all children at each school.

L. School districts and charter schools wishing to submit information to the School LAND Trust website through a comprehensive electronic plan shall meet the parameters for programming and data entry required by the USOE. They shall review School LAND Trust plans on the USOE website prior to local board of education or chartering entity approval to ensure information consistent with the law has been downloaded by individual schools into the electronic plan visible on the School LAND Trust Program website.

M. A form that includes the names of members of the council shall be signed by members of the council to indicate their involvement in implementing the current School LAND Trust plan and developing the school plan for the upcoming year. The form shall be uploaded to the database by the principal, director, or school district employee.

N. When approving school plans on the School LAND Trust Program website, the approving entity shall report the meeting date(s) when the approving entity approved the plans.

**R277-477-4. Distribution of Funds - Determination of Proportionate Share.**

A. A designated amount appropriated by the Legislature from the Interest and Dividends Account shall be used to fund the School Children's Trust Section, the administration of the program and other duties outlined in this rule and Sections 53A-16-101.5 and 53A-16-101.6. Any unused balance initially allocated for School LAND Trust Program administration shall be deposited in the Interest and Dividends Account for future distribution to schools in the School LAND Trust Program.

B. Funds shall be distributed to school districts and charter schools as provided under Section 53A-16-101.5(3)(a). The distribution shall be based on the state's total fall enrollment as reflected in the audited October 1 Fall Enrollment Report from the previous school year.

C. Each school district shall distribute funds received under R277-477-3A to each school within each school district on an equal per student basis.

D. Charter schools shall receive funding from the USOE on a per pupil basis, provided that each charter school receives at least 1/25 of one percent of the total available to charter schools as a group. The remainder of the distribution to charter schools shall be allocated to all charter schools that do not receive the minimum amount, on a per pupil basis.

E. Local boards of education shall adjust distributions, maintaining an equal per student distribution within a school district for school openings and closures and for boundary changes occurring after the audited October 1 Fall Enrollment Report of the prior year.

F. If a school chooses not to apply for School LAND Trust Program funds nor meet the requirements for receiving funds, the funds allocated for that school shall be retained by the USOE and included with the statewide distribution for the following school year.

G. Local boards and school districts shall ensure timely notification to chairs and principals of the availability of the funds to schools with approved plans.

H. Plans submitted by the USDB governing board shall be reviewed and approved by the School Children's Trust Section and reported to the State Superintendent or designee.

**R277-477-5. School LAND Trust Program: Implementation of Plans and Required Reporting.**

A. Schools shall make full good faith efforts to implement the plan as approved.

B. The school community council or charter school trust land council may amend a current year plan when necessary. The council shall amend the plan by a majority vote of a quorum of the council. A school's website shall show an amended plan.

C. Funds not used in the school approved plan may be carried over by the school to the next school year and added to the School LAND Trust Program funds available for expenditure in that school the following year.

D. Schools shall provide an explanation for any carry over that exceeds one-tenth of the school's allocation in the school plan or report. Districts and schools with consistently large carryover balances over multiple years are not making adequate and appropriate progress on their plans, and shall be subject to compliance review findings and corrective action. E.

District and charter school business officials shall enter prior year audited expenditures by category on the School LAND Trust website on or before October 15th. The expenditure data shall appear in the final reports submitted online by principals for reporting to parents as required in Section 53A-1a-108.

F. Expenditures made after the close of the fiscal year shall be accounted for as expenditures in the following fiscal year.

G. Final reports shall be submitted by schools on the website by November 15.

**R277-477-6. School LAND Trust Program - School Children's Trust to Review Compliance.**

A. The financial report in each school final report shall be reviewed by the School Children's Trust Section for consistency with the narrative submitted by that council.

B. Final reports indicating that funds from the School LAND Trust Program were expended inconsistent with the requirements and academic intent of the law, inconsistent with R277-477 or R277-491 and/or inconsistent with the school board/charter board approved plan shall be listed by the School Children's Trust Section and reported to the district contact, district superintendent, and local board or charter board president annually.

C. USOE staff may visit schools receiving funds from the School LAND Trust Program as directed by the Superintendent to discuss the program, receive information and suggestions, provide training, and answer questions.

D. Annual compliance reviews shall be conducted to review expenditure of funds relative to the approved plan and allowable expenses.

E. The School Children's Trust Section shall report annually to the Board Audit Committee on compliance review findings and other compliance issues. The Board Audit Committee shall make determinations regarding questioned costs and corrective action, following review and consideration of compliance and financial reviews conducted by the School Children's Trust Section.

F. The State Board Audit Committee may reduce or eliminate funds if a school has failed to comply with code or Board rule.

**KEY: schools, trust lands funds**

**Date of Enactment or Last Substantive Amendment: [~~October 9, 2012~~]2013**

**Notice of Continuation: June 10, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-16-101.5(3)(c); 53A-1-401(3)**

**Education, Administration  
R277-484  
Data Standards**

**NOTICE OF PROPOSED RULE  
(Amendment)  
DAR FILE NO.: 37739  
FILED: 06/14/2013**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to change the dates for data submission to allow for the correction of technical errors and check data quality before moving forward with a final data set for budgeting and fund allocation. The amendments also establish timelines and requirements for local education agencies (LEAs) changing their student information systems. The amendments provide technical and terminology changes, as well as removing obsolete language.

**SUMMARY OF THE RULE OR CHANGE:** The amendments include: new and revised definitions; date and requirement changes; changes and adjustments to deadlines; and official data source and required LEA compatibility language.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes provide for greater flexibility to improve data quality.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. LEAs will enter data consistent with the rule changes and have flexibility to improve data accuracy.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes do not apply to individuals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Although the Utah State Office of Education can interrupt Minimum School Program fund transfers to LEAs that fail to submit reports by deadlines, upon compliance with the requirements, funding is resumed and the fund transfer continued.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON  
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO  
LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and  
Legislation

## **R277. Education, Administration.**

### **R277-484. Data Standards.**

#### **R277-484-1. Definitions.**

A. "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Section 53A-1-301(3)(d) and (e).

B. "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Section 53A-1-301(3)(d) and (e).

C. "Board" means the Utah State Board of Education.

D. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the database maintained on all licensed Utah educators. The database includes information such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;
- (4) employment history;
- (5) professional development information;
- (6) completion of employee background checks; and
- (7) a record of disciplinary action taken against the educator.

~~E. "Data Clearinghouse File" means the electronic file of student level data submitted by LEAs to the USOE in the layout specified by the USOE. This definition is effective until July 1, 2011.~~

[F]E. "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.

[G]E. "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated ~~as of the 2008-09 school year~~ to submit data to the U.S. Department of Education.

[H]G. "ESEA" means the federal Elementary and Secondary Education Act, also known as the No Child Left Behind Act.

[I]H. "LEA" means local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[J]I. "MSP" means Minimum School Program, the set of state support K-12 public school funding programs.

[K]J. "MST" means Mountain Standard Time.

~~K. "Schools interoperability framework (SIF)" means an open global standard for seamless, real time data transfer and usage for Utah public schools.~~

~~L. "Student information system (SIS)" means a student data collection system used for Utah public schools.~~

[L]M. "USOE" means Utah State Office of Education.

[M]N. "Utah eTranscript and Record Exchange (UTREx)" means a system that allows individual detailed student records to be exchanged electronically between public education LEAs and the USOE, and allows electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service. ~~[This definition becomes effective on July 1, 2011, the date when UTREx becomes available to all Utah LEAs.]~~

[N]O. "Year" means both the school year and the fiscal year for LEAs in Utah, which runs from July 1 through June 30.

~~[O. "YICSIS" means the Youth In Custody Student Information System.]~~

#### **R277-484-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities and specifically allows the Board to interrupt disbursements of state aid to any LEA which fails to comply with rules.

B. The Board, through its chief executive officer, the State Superintendent of Public Instruction, is required to perform certain data collection related duties essential to the operation of statewide educational accountability and financial systems as mandated in state and federal law.

C. The purpose of this rule is to support the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs.

#### **R277-484-3. Deadlines for Data Submission.**

For the purpose of submission of student level data, each Utah LEA shall participate in UTREx ~~as of July 1, 2011~~. LEAs shall submit data to the USOE as directed by the USOE through the following reports by 5:00 p.m. MST on the date and in the format specified by the USOE:

A. February 28 - Community Development and Renewal Agency and/or Redevelopment Agency Taxing Entity Committee Representative List ~~[Business Services]~~.

B. June 15

(1) Immunization Status Report (to Utah Department of Health) - final;

(2) Safe School Incidents Report - for current year.

C. June 29 - CACTUS - final update for current year.

D. July 1

(1) Fire Drill Compliance Statement - for prior year;

(2) Other Emergency (Earthquake and School Violence) Drills Compliance Statement - for prior year;

(3) Emergency Preparedness Compliance Statement - for prior year;

(4) Emergency Response Plan - for prior year.

~~[D]E. July 7 -~~

~~(1) Data Clearinghouse File - final comprehensive update for prior year - Data, Assessment, and Accountability - effective until July 1, 2011;~~

~~(2) ]UTREx - final comprehensive update for prior year[- Data, Assessment, and Accountability - effective on July 1, 2011].~~

[E]E. July 15

(1) Adult Education - final report for prior year;

(2) Classified Personnel Report - for prior year[~~Business Services~~];

(3) Driver Education Report - for prior year[~~Education Quality~~];

(4) ESEA Choice and Supplemental Services Report - for prior year;

(5) Fee Waivers Report - for prior year;

~~[ (6) Fire Drill Compliance Statement - for prior year;~~

~~(7) ]~~ (6) Home Schooled Students Report - for prior year;

(8) Teacher Benefits Report - for prior year;

(9) Pupil Transportation Statistics - for prior year:

(a) Bus Inventory Report;

(b) Year End Pupil Transportation Statistics Reports[-];

(9) Copy of local school board-adopted budget - for next fiscal year, unless the local school board provides documentation of planned truth-in-taxation process.

G. August 15 - copy of the local school board-adopted budget - for next fiscal year, if the local school board provides documentation of planned truth-in-taxation process.

[F]H. September 15

(1) Membership Audit Report - for prior year;

(2) Adult Education - Financial Audit for prior year.

[G]I. October 1

(1) Annual Financial Report (AFR) - for prior year;

(2) Annual Program Report (APR) - for prior year[-];

(3) Annual assurance letter required for compliance information and documentation for identified programs and funds, pursuant to R277-108.

[H]J. Seven business days after October 1[5] -

~~(1) Data Clearinghouse File - update as of October 1 for current year - effective until July 1, 2011;~~

~~(2) ]UTREx - complete update required as of October 1 for current year[- effective on July 1, 2011].~~

~~(3) YICISIS - update as of October 1 for current year.~~

K. October 15 - UTREx - revised update as of October 1 for current year, if significant errors are identified by the USOE or the LEA.

[I]L. November 1

(1) Enrollment and Transfer Student Documentation Audit Report - for current year;

(2) Immunization Status Report - for current year;

(3) Pupil Transportation Statistics for state funding:

(a) Schedule A1 (Miles, Minutes, Students Report) - projected for current year;

(b) Schedule B (Miscellaneous Expenditure Report) - for prior year;

(4) Negotiations report - for current year.

[J]M. November 15

(1) CACTUS - update for current year; and

(2) Free and Reduced Price Lunch Enrollment Survey - as of October 31 for current year.

[K]N. November 30 - Financial Audit Report - for prior year.

O. Seven business days after December 1 - UTREx - complete update required as of December 1 for current year.

[L]P. December 15 -

~~(1) Data Clearinghouse File - update as of December 1 for current year - effective until July 1, 2011;~~

~~(2) ]Bus Driver Credentials Report - for current year[Business Services].~~

M. December 15 - UTREx - revised update as of December 1 for current year if significant errors are identified by the USOE or the LEA[- effective on July 1, 2011].

#### **R277-484-4. Adjustments to Deadlines.**

A. Deadlines in R277-484 that fall on a weekend or state holiday in a given year shall be moved to the ~~date of the~~ first workday after the date specified ~~in Section 3~~ for that year.

B. An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate ~~input~~ information to allocation formulas by submitting a written request to the USOE. The request shall be received by the USOE ~~State~~ Director of School Finance ~~and Statistics~~ at least 24 hours before the specified deadline in Section 3 and include:

(1) The reason(s) ~~why~~ for the extension ~~is needed~~ request;

(2) The signatures of the LEA business administrator and ~~the district superintendent or charter school~~ LEA superintendent/director; and

(3) The date by which the LEA shall submit the report.

C. In processing the request for the extension, the USOE ~~State~~ Director of School Finance ~~and Statistics~~ shall:

(1) Take into consideration the pattern of LEA compliance with reporting deadlines and the urgency of the ~~use which depends on~~ need for the data to be submitted ~~consult with other USOE staff who have knowledge relevant to the situation of the LEA~~; and either

(2) Approve the request and allow the MSP fund transfer process to continue; or

(3) Recommend denial of the request and forward it to the USOE Associate Superintendent for Business ~~Services~~ and Operations for a final decision on whether or not to stop the MSP fund transfer process.

D. If, after receiving an extension, the LEA fails to submit the report by the ~~agreed~~ designated date, the MSP fund transfer process shall be stopped and the procedure described in Section 8 shall apply.

E. Extensions shall apply only to the report(s) and date(s) specified in the request.

F. Exceptions - Deadlines for the following reports may not be extended:

- (1) ~~[June 29]~~CACTUS Update~~;~~;  
 (a) June 29;  
 (b) November 15.  
~~[(2) July 7 Final Data Clearinghouse File -- final comprehensive update for prior year Data, Assessment, and Accountability -- effective until July 1, 2011;~~  
~~]~~ ~~(3)2~~ UTREx Update:  
 (a) July 7 UTREx - final comprehensive update for prior year~~[--Data, Assessment, and Accountability -- effective on July 1, 2011];~~  
 (b) Seven business days after October 1 UTREx - complete update required as of October 1;  
 (c) October 15 UTREx - revised update as of October 1;  
~~[(4) November 15 CACTUS -- update for current year.~~  
~~]~~ (d) Seven business days after December 1 UTREx - complete update required as of December 1;  
 (e) December 15 UTREx - revised update as of December 15.

**R277-484-5. Official Data Source and Required LEA Compatibility.**

A. The USOE shall load operational data collections into the Data Warehouse as of the submission deadlines specified.

B. The Data Warehouse shall be the sole official source of data for annual:

- (1) school performance reports required under Section 53A-3~~[a]~~-602.5;  
 (2) determination of adequate yearly progress as required under the ~~[ESEA]~~Utah Comprehensive Accountability System (UCAS); and  
 (3) submission of data files to the U.S. Department of Education via EDEN.

C. ~~[Prior to an LEA acquiring a student information system, replacing an existing student information system, or modifying data elements in an existing student information system, an LEA shall have USOE approval to ensure that the LEA's new or modified student information system maintains compatibility with UTREx.]~~LEAs shall use a USOE-approved SIS to ensure compatibility with USOE data collection systems. The USOE maintains a list of approved student information systems.

(1) Prior to the USOE granting approval for an LEA to initiate or replace a student information system that was not previously approved, the LEA shall comply with the following:

- (a) LEA shall send written request for approval to USOE's Director of Information Technology;  
 (b) LEA shall submit documentation to the USOE that the new or modified student information system is School Interoperability Framework (SIF) certified;  
 (c) LEA shall submit documentation to the USOE that a SIF agent can meet the UTREx specifications profile for Vertical Reporting Framework (VRF), and eTranscripts;  
 (d) LEA shall ensure that a new student information system can generate valid data collection by submitting an actual file to the USOE for review;  
 (e) LEA shall ensure that the new student information system can generate the Statewide Student Identifier (SSID) request file by submitting an actual file to the USOE for review.

(2) The USOE shall review documentation and grant or deny requests within 30 calendar days.

(3) LEA requests and approval shall be completed by January 15 of the school year prior to the year the LEA proposes to use the software for production data. Approved replacement systems shall run in parallel for a period of at least three months to a state-approved system and be able to generate duplicate reports to previously generated information.

D. No later than October 1, 2013, all public education LEAs shall begin submitting daily updates to the USOE Clearinghouse using all School Interoperability Framework (SIF) objects defined in the UTREx Clearinghouse specification. ~~[Failure to do so shall be a violation of Board reporting rules]~~Noncompliance with this requirement may result in interruption of MSP funds consistent with R277-484-8.

E. All public high school transcripts requested by public education post-secondary schools shall be electronically submitted to those public education post-secondary schools if the post-secondary schools are capable of receiving transcripts through the electronic transcript service designated by the USOE. This process is mandatory for all public high schools ~~[after September 1, 2013]~~as of October 1, 2013.

**R277-484-6. Use of Data for Allocation of Funds.**

The USOE School Finance~~[and Statistics]~~ Section shall publish ~~[after each general legislative session]~~ by June 30 annually on its website a ~~[n explicit]~~ description of how data shall be used to allocate funds to LEAs in each MSP program in the following fiscal year.

**R277-484-7. Adjustments to Summary Statistics Based on Compliance Audits.**

A. For the purpose of allocating MSP funds and projecting enrollment, LEA level aggregate membership and fall enrollment counts may be modified by the USOE on the basis of the values in the Membership and Enrollment audit reports, respectively, when a ~~[n]~~ USOE audit report review team ~~[comprising at least three members of the Finance and Statistics and Charter School sections]~~ agrees that an adjustment is warranted by the evidence of an audit:

(1) the audit report review team shall make its determination within ~~[five]~~ 60 working days of the authorized audit report deadline;

(2) values can only be adjusted downward when audit reports are received after the authorized deadlines.

**R277-484-8. Financial Consequences of Failure to Submit Reports on Time.**

A. If an LEA fails to submit a report by its deadline as specified in Section 3, consistent with procedures outlined in R277-114, the USOE shall stop the MSP fund transfer process on the day after the deadline, unless the LEA has obtained an extension of the deadline in accordance with the procedure described in Section 4, to the following extent:

(1) 10% of the total monthly MSP transfer amount in the first month, 25% in the second month, and 50% in the third and subsequent months for any report other than June 15 Immunization Status report.

(2) Loss of up to 1.0 WPU from Kindergarten or Grades 1-12 programs, depending on the grade level and aggregate membership of the student, in the current year Mid Year Update for



each student whose prior year immunization status was not accounted for in accordance with Utah Code 53A-11-301 as of June 15.

B. If the USOE has stopped the MSP fund transfer process for an LEA, the USOE shall:

(1) upon receipt of a late report from that LEA, restart the transfer process within the month (if the report is submitted by 10:00 a.m. on or before the tenth working day of the month) or in the following month (if the report is submitted after 10:00 a.m. on or after the tenth working day of the month); and

(2) ~~inform the~~ appropriately inform the Board ~~[Committee]~~ at its next regularly scheduled ~~[Committee]~~ meeting.

(3) inform the chair of the governing board if LEA staff are not responsive in correcting ongoing problems with data.

**KEY: data standards, reports, deadlines**

**Date of Enactment or Last Substantive Amendment:** ~~[February 21,]~~ 2013

**Notice of Continuation:** December 31, 2012

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-401(3); 53A-1-301(3)(d) and (e)

**Education, Administration  
R277-487**

**Public School Data Confidentiality and Disclosure**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 37740  
FILED: 06/14/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide a section on educator evaluation data.

**SUMMARY OF THE RULE OR CHANGE:** The amendments include adding a new Section R277-487-5 on educator evaluation data; adding a new definition "Classroom-level assessment data"; and adding a new authorizing citation consistent with the new Section R277-487-5.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3) and Subsection 53A-13-301(3)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. Existing Utah State Board of Education (Board) staff will comply with the requirements of the new Section R277-487-5 within existing budgets.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. It is expected that existing local education agency (LEA) staff will comply with the

requirements of the new Section R277-487-5 within existing budgets.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Requirements based on the amendments are state and local requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Board and LEA staff will comply with the requirements of the new Section R277-487-5.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

**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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013**

**AUTHORIZED BY:** Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277-487. Public School Data Confidentiality and Disclosure.**

**R277-487-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Classroom-level assessment data" means student scores on state-required tests, aggregated in groups of more than 10 students at the classroom level or, if appropriate, at the course level, without individual student identifiers of any kind.

[B]C. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained and owned by the USOE on all licensed Utah educators. The file includes information such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;

- (4) employment history; and  
 (5) a record of disciplinary action taken against the educator.

[C]D. "Disciplinary action" means any lesser action taken by UPPAC which does not materially affect a licensed educator's license and licensing action taken by the Board for suspension or revocation.

[D]E. "FERPA" means the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, a federal law designed to protect the privacy of students' education records. The law is hereby incorporated by reference.

[E]E. "LEA" means local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[F]G. "Student information" means materials, information, records and knowledge that an LEA possesses or maintains, or both, about individual students. Student information is broader than student records and may include information or knowledge that school employees possess or learn in the course of their duties.

[G]H. "Student record" means a record in any form, including handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche, that is directly related to a student and maintained by an educational agency or institution or by a party acting for an agency or institution. Student records shall be maintained by LEAs consistent with 20 U.S.C. Section 1232g.

#### **R277-487-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities[;]; by Section 53A-13-301(3) regarding confidentiality and required or appropriate disclosure of student records data; by Section 53A-1-607(2) regarding disclosure of student data to LEAs for assessment and accountability purposes; by Section 53A-8a-410(4) to ensure the privacy and protection of individual educator evaluation data; by Section 53A-3-602.5 regarding a school performance report requiring criterion-referenced or online computer adaptive tests to be aggregated for all students by class; by Section 53A-1-411 which directs the Board to establish procedures for administering or making available online surveys to obtain information about public education issues[;]; and by Section 53A-6-104 which authorizes the Board to issue licenses to educators and maintain licensing information.

B. The purpose of this rule is to:

- (1) provide for appropriate review and disclosure of student assessment data on state mandated assessments as required by law;  
 (2) provide for adequate and appropriate review of student assessment data on state mandated assessments to professional education staff and parents of students;  
 (3) ensure the privacy of student records, as directed by law [, of individual student information,];  
 (4) ~~to~~ provide an online education survey conducted with public funds for Board review and approval[;]; and  
 (5) ~~and to~~ provide for appropriate protection and maintenance of educator licensing data.

#### **R277-487-3. Confidentiality of Student Data.**

A. Board Responsibilities:

(1) The Board shall develop resource materials for LEAs to train employees, aids, and volunteers of an LEA regarding confidentiality of student information and student records, as defined in FERPA.

(2) The Board shall make the materials available to each LEA.

B. LEA Responsibilities:

(1) LEAs shall establish policies and provide appropriate training for employees regarding the confidentiality of student records, including an overview of all federal, state, and local laws that pertain to the privacy of students, their parents, and their families. The policy should address the specific needs or priorities of the LEA.

(2) LEAs shall require password protection for all student records maintained electronically.

C. Public Education Employee and Volunteer Responsibilities:

(1) All public education employees, aids, and volunteers in public schools shall become familiar with federal, state, and local law regarding the confidentiality of student information and student records.

(2) All public education employees, aids, and volunteers shall maintain appropriate confidentiality pursuant to federal, state, and local laws with regard to student records.

(3) An employee, aid, or volunteer shall maintain student records in a secure and appropriate place as designated by policies of an LEA.

(4) An employee, aid, or volunteer accessing student records in electronic format shall comply with policies of an LEA regarding the procedures for maintaining confidentiality of electronic records.

(5) An employee, aid, or volunteer shall not share, disclose, or disseminate passwords for electronic maintenance of student records.

(6) All public education employees, aids and volunteers have a responsibility to protect confidential student information and access records only as necessary for their assignment(s).

(7) Public education employees licensed under Section 53A-6-104 shall access and use student information and records consistent with R277-515, Utah Educator Standards. Violations may result in licensing discipline.

#### **R277-487-4. Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS) Data, Confidentiality, and Appropriate Disclosure.**

A. CACTUS maintains public, protected and private information on licensed Utah educators. Private or protected information includes such items as home address, date of birth, social security number, and any disciplinary action taken against an individual's license.

B. A CACTUS file shall be opened on a licensed Utah educator when:

- (1) the individual initiates a USOE background check, or  
 (2) the USOE receives a paraprofessional license application from an LEA.

C. The data in CACTUS may only be changed as follows:

(1) Authorized USOE staff or authorized LEA staff may change demographic data.

(2) Authorized USOE staff may update licensing data such as endorsements, degrees, license areas of concentration and licensed work experience.

(3) Authorized employing LEA staff may update data on educator assignments for the current school year only.

D. A licensed individual may view his own personal data. An individual may not change or add data except under the following circumstances:

(1) A licensed individual may change his demographic data when renewing his license.

(2) A licensed individual shall contact his employing LEA for the purpose of correcting demographic or current educator assignment data.

(3) A licensed individual may petition the USOE for the purpose of correcting any errors in his CACTUS file.

E. Individuals currently employed by public or private schools under letters of authorization or as interns are included in CACTUS.

F. Individuals working in LEAs as student teachers are included in CACTUS.

G. Designated individuals have access to CACTUS data:

(1) Training shall be provided to designated individuals prior to granting access.

(2) Authorized USOE staff may view or change CACTUS files on a limited basis with specific authorization.

(3) For employment or assignment purposes only, authorized LEA staff members may access data on individuals employed by their own LEA or data on licensed individuals who do not have a current assignment in CACTUS.

(4) Authorized LEA staff may also view specific limited information on job applicants if the applicant has provided the LEA with a CACTUS identification number.

(5) CACTUS information belongs solely to the USOE. The USOE shall make the final determination of information included in or deleted from CACTUS.

(6) CACTUS data consistent with Section 63G-2-301(1) under the Government Records Access and Management Act are public information and shall be released by the USOE.

#### **R277-487-5. Educator Evaluation Data.**

A. The Board shall provide classroom-level assessment data to administrators and teachers. School administrators shall share information requested by parents while ensuring the privacy of individual student information and educator evaluation data.

B. Individual educator evaluation data shall be protected at the school, LEA and state levels and, if applicable, at the USOE.

C. LEAs shall designate employees who may have access to educator evaluation records.

D. LEAs may not release or disclose student assessment information that reveals educator evaluation information or records.

E. LEAs shall train employees in the confidential nature of employee evaluations and the importance of securing evaluations and records.

#### **R277-487-[5]6. Public Education Research Data.**

A. The USOE may provide limited or extensive data sets for research and analysis purposes to qualified researchers or organizations.

(1) A reasonable method shall be used to qualify researchers or organizations to receive data, such as evidence that a research proposal has been approved by a federally recognized Institutional Review Board (IRB).

(2) Aggregate deidentified student assessment data are available through the USOE website. Individual student information [are]is protected.

(3) The USOE is not obligated to fill every request for data and has procedures to determine which requests will be filled or to assign priorities to multiple requests. The USOE/Board understands that it will respond in a timely manner to all requests submitted under Section 63G-2-101 et seq., Government Records Access and Management Act. In filling data requests, higher priority may be given to requests that will help improve instruction in Utah's public schools.

(4) A fee may be charged to prepare data or to deliver data, particularly if the preparation requires original work. The USOE shall comply with Section 63G-2-203 in assessing fees.

(5) The researcher or organization shall provide a copy of the report or publication produced using USOE data to the USOE at least 10 business days prior to the public release.

B. Student information: Requests for data that disclose student information shall be provided in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g; such responses may include:

(1) individual student data that are de-identified, meaning it is not possible to trace the data to individual students;

(2) agreements with recipients of student data where recipients agree not to report or publish data in a manner that discloses students' identities. For example, reporting test scores for a race subgroup that has a count, also known as n-size, of less than 10 could enable someone to identify the actual students and shall not be published;

(3) release of student data, with appropriate binding agreements, for state or federal accountability or for the purpose of improving instruction to specific student subgroups.

C. Licensed educator information:

(1) The USOE shall provide information about licensed educators maintained in the CACTUS database that is required under Section 63G-2-301(2).

(2) Additional information/data may be released by the USOE consistent with the purposes of CACTUS, the confidentiality protections accepted by requester(s), and the benefit that the research may provide for public education in Utah, as determined by the USOE.

D. Recipients of USOE research data shall sign a USOE non-disclosure agreement if required by the USOE.

E. The Board or the USOE may commission research or may approve research requests.

#### **R277-487-[6]7. Public Education Survey Data.**

A. The Board shall approve statewide education surveys administered with public funds through the USOE or through a contract issued by the USOE, as required under Section 53A-1-411.

B. Data obtained from USOE statewide surveys administered with public funds are the property of the Board.

C. Data obtained from USOE statewide surveys administered with public funds shall be made available as follows:

(1) Survey data made available by the Board shall protect the privacy of students in accordance with FERPA.

(2) Survey data about educators shall be available in a manner that protects the privacy of individual educators consistent with State law.

**KEY: students, records, confidentiality**

**Date of Enactment or Last Substantive Amendment:** ~~February 21,~~ 2013

**Notice of Continuation:** December 31, 2012

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-13-301(3); 53A-1-401(3); 53A-1-411

## Education, Administration R277-489 Early Intervention Program

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37741

FILED: 06/14/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide an optional enhanced or extended-day kindergarten program as a method of early intervention for students at risk of academic failure. The amendments also provide for a Request for Proposals (RFP) process to select one or more technology providers to provide adaptive learning technology and assessments in reading and math for students in kindergarten and grade 1. LEAs will receive the learning technology through a competitive process.

**SUMMARY OF THE RULE OR CHANGE:** The amendments include language for an RFP process to select one or more technology providers to provide adaptive learning technology in reading; the computer-based adaptive technology shall be available to LEAs through a competitive process to students in Kindergarten through grade 3; and school districts and charter schools that applied to participate in the program during the 2012-2013 school year will be given first priority to receive an equivalent license during the current year.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This is no anticipated cost or savings to the state budget. Funding is provided for selected participants in the Early Intervention Program.

◆ **LOCAL GOVERNMENTS:** This is no anticipated cost or savings to local government. Funding is provided for selected participants in the Early Intervention Program.

◆ **SMALL BUSINESSES:** One or more technology providers will be selected to provide adaptive learning technology in reading.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Funding is provided for selected participants in the Early Intervention Program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Selected schools will receive funding to provide the Early Intervention Program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

**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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013**

**AUTHORIZED BY:** Carol Lear, Director, School Law and Legislation

### **R277. Education, Administration.**

#### **R277-489. Early Intervention Program.**

##### **R277-489-1. Definitions.**

A. "Adaptive learning technology and assessments" means technology tools and software that adjust the presentation of educational material according to students' weaknesses and strengths, as indicated by student responses to questions.

B. "Board" means the Utah State Board of Education.

C. "Early intervention program" means a program that provides additional instruction to kindergarten age students either as an extended period before or after school, on Saturdays, during the summer, or through other means.

D. "Enrollment" means class enrollment of not more than the student enrollment of other kindergarten classes within the school.

E. "Kindergarten readiness assessment" means an assessment based on research and data that determines a child's readiness to begin kindergarten, as determined by the school district or charter school.

F. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

G. "LEA plan" means the Early Intervention Program plan submitted by LEAs and approved and accepted for funding by the Board.

H. "Program" means the Early Intervention Program.

I. "Student learning gains" means the score a student obtains by comparing performance on a pre-test at the beginning of an intervention to the performance on a post-test at the end of an intervention (post-test score minus pre-test score equals learning gains score).

J. "USOE" means the Utah State Office of Education.

#### **R277-489-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 53A-17a-167 which directs the Board to distribute funds appropriated for the Early Intervention Program, consistent with state law, to LEAs that apply for the funds.

B. The purpose of this rule is to establish criteria and procedures for application and reporting procedures to administer the early intervention program.

#### **R277-489-3. Board/USOE Responsibilities.**

A. The Board shall accept applications from LEAs for Early Intervention Programs delivered through enhanced kindergarten programs that satisfy the requirements of Section 53A-17a-167 and the provisions of this rule.

(1) The USOE shall accept applications annually beginning on June 1 for the 2012-2013 school year and April 1 in subsequent years and closing as determined by the USOE.

(2) The Board shall select charter schools with the greatest need for an enhanced kindergarten program in consultation with the State Charter School Board.

([2]3) The [USOE]Board shall distribute funds to eligible [LEAs]charter schools based on a formula identifying the [eount of economically disadvantaged students]percentage of students in public schools and the percentage of students with the greatest need for an enhanced kindergarten program consistent with [timelines established by the USOE]Section 53A-17a-167(4)(a).

(4) The Board shall distribute funds to eligible school districts by determining the number of students eligible to receive free lunch in the prior school year for each school district and prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

(5) All funds shall be distributed consistent with USOE established timelines.

([3]6) The USOE shall require pre and post-assessments from all funded programs and year-end data.

([4]7) The USOE shall require year-end data and a report from funded programs.

B. The Board shall select one or more technology providers through an RFP to provide adaptive learning technology and assessments for reading~~[, mathematics, or science for early intervention kindergarten students and an adaptive computer program for literacy instruction for early grade interventions]~~for students in kindergarten through grade ~~[+]~~3.

(1) The USOE shall accept applications from LEAs for grants to be used to purchase Board-selected adaptive learning technology and assessments for reading~~[, mathematics, or science for early intervention kindergarten students or an adaptive computer program for literacy instruction, or both, for early grade interventions]~~ for students in kindergarten through grade ~~[+]~~3.

(2) A school district or charter school that received a license for an adaptive learning technology in a previous school year shall be given priority to receive an equivalent license in subsequent years.

([2]3) The USOE shall require pre and post-assessments from all participating LEAs.

([3]4) The USOE shall require an annual report from all participating LEAs that assesses the impact of the adaptive learning technology and assessments or adaptive computer program for literacy instruction used by the LEA, including final testing data and student learning gain scores.

([4]5) The Board shall report final testing data and student learning scores regarding adaptive learning technology and assessments or adaptive computer program for literacy instruction on or before November 1, 2012 and every year thereafter to the Education Interim Committee and the Governor.

#### **R277-489-4. LEA Responsibilities.**

A. LEA applications for Early Intervention Programs shall include:

(1) names of schools for which Program funds shall be used;

(2) a description of the delivery method or methods that shall be used to serve eligible students (such as full-day kindergarten, two half-days, extra hours, summer program, or other means);

(3) a description of the evidence-based early intervention model used by the LEA;

(4) a description of how the program shall focus on age-appropriate literacy and numeracy skills;

(5) a description of how the program shall be targeted to at-risk students;

(6) a description of the assessment procedures and tools that shall be used by participating schools within the LEA; and

(7) other information as requested by the USOE.

B. LEAs may apply for grants ~~[to be used to purchase]~~for Board-selected adaptive learning technology and assessments for reading~~[, mathematics, or science for early intervention kindergarten students and an adaptive computer program for literacy instruction, or both, for early grade interventions]~~ for students in kindergarten through grade ~~[+]~~3.

(1) LEA adaptive learning technology and assessments grant recipients shall use a pre-test before using the technology tools and software with early intervention kindergarten students and shall administer a post-test at the end of the year.

(2) LEAs shall prepare and submit a report to the USOE detailing final testing data including student learning gains regarding the adaptive learning technology.

(3) LEA adaptive computer program for literacy instruction for early grade interventions grant recipients shall use a pre-test before using the technology tools and software with early intervention students in kindergarten through first grade and shall administer a post-test at the end of the year.

(4) LEAs shall prepare and submit a report to the USOE detailing final testing data including student learning gains regarding the adaptive computer program for literacy instruction for early grade interventions.

C. LEAs that fail to provide complete and accurate data and reports as requested shall not receive Program funding in subsequent years.

D. An LEA may not require a student to participate in an early intervention program.

**R277-489-5. Assessment, Accountability and Reporting.**

A. LEAs shall use a self-selected kindergarten pre-assessment with all kindergarten students:

(1) The days used for assessment shall be consistent with R277-419-7, Pupil Accounting.

(2) The USOE may provide a model kindergarten assessment from a list of appropriate assessments.

(3) Post assessments shall be completed by LEAs prior to the ending of the school year and reported to the Board as soon as reasonably possible.

(4) Post assessment results for all kindergarten students shall provide evidence of student learning matched to the program's pre-assessments used for program placement.

B. LEAs that fail to provide complete, accurate and timely reports ~~shall~~ may not receive funding in subsequent years.

**KEY: early intervention**

**Date of Enactment or Last Substantive Amendment:** [~~August 8, 2012~~2013]

**Notice of Continuation:** June 15, 2012

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-401(3); 53A-17a-167

**Education, Administration**

**R277-490**

**Beverley Taylor Sorenson Elementary  
Arts Learning Program**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37742

FILED: 06/14/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to reflect legislative changes to Section 53A-17a-162, Beverley Taylor Sorenson

Elementary Arts Learning Program, as well as changes to the funding structure.

SUMMARY OF THE RULE OR CHANGE: The amendments include changes to expand the reach of the program with specialists serving more than one school and clarifying the intent of funding based on Subsection 53A-17a-162(3)(b).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to the state. Legislative funding has been provided for the Beverley Taylor Sorenson Elementary Arts Learning Program.

◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Legislative funding has been provided for the Beverley Taylor Sorenson Elementary Arts Learning Program.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Participating schools will receive funding, consistent with this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons. Participating schools will receive funding, consistent with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.****R277-490. Beverly Taylor Sorenson Elementary Arts Learning Program.****R277-490-1. Definitions.**

A. "Arts equipment and supplies" means musical instruments, recording and play-back devices, cameras, projectors, computers to be used in the program, CDs, DVDs, teacher reference books, and art-making supplies. This list is not exhaustive.

B. "Arts [p]Program coordinators (coordinator)" means individuals, employed full-time, who are responsible to coordinate arts programs for the [school district, charter school]LEA (as defined in R277-490-1G) or consortium, inform arts teachers, organize arts professional development (including organizing arts local learning communities), oversee/guide/organize the gathering of assessment data, represent the [school district, charter school]LEA or consortium arts program, and provide general leadership for arts education throughout the [school district, charter school]LEA or consortium.

C. Beverly Taylor Sorenson Elementary Arts Learning Program model means a [p]Program with the following components:

(1) a qualified arts specialist to work [side-by-side]collaboratively with the regular classroom teacher to deliver quality, sequential, and developmental arts instruction in alignment with the state Fine Arts Core Curriculum; and

(2) [weekly]regular collaboration between the [regular] classroom teacher and arts specialist in planning arts integrated instruction [with regular 15-30 minute conferences].

D. "Board" means the Utah State Board of Education.

[E. "Full-time employee," for purposes of this rule, means an employee that works a schedule consistent with the full-time contract agreement of the school or school district, including evaluations and entitlement to employment benefits.]

[F]E. "Highly qualified school arts program specialist (arts specialist)" means:

(1) an educator with a current educator license and a Level 2 or K-12 specialist endorsement in the art form; or

(2) an elementary classroom teacher with a current educator license who is currently enrolled in a Level 2 specialist endorsement program in the art form and who works with a mentor who holds an arts endorsement; or

(3) a professional artist employed by a public school and accepted into the Board Alternative Routes to License (ARL) program under R277-503 to complete a K-12 endorsement in the art form, which includes the Praxis exam in the case of art, music, or theatre.

(4) In addition to required licensure and endorsements, prospective teachers should provide evidence of facilitating elementary Core learning in at least one art form.

[G]E. "Independent evaluator," for purposes of this rule and [p]Program, means an evaluator selected jointly by the Board and the Utah Arts Council through the required procurement process. The evaluator shall have experience and expertise in education programs and in the arts.

G. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and for purposes of this rule, the Utah Schools for the Deaf and the Blind.

H. "Matching funds," for purposes of this rule and [p]Program, means funds that equal the total grant amount received

by an [school district/charter school]LEA/consortium to fund an [school district/charter school]LEA/consortium arts coordinator under Section 53A-17a-162(3)(c) and R277-490-5.

I. "USOE" means the Utah State Office of Education.

[H]J. "Utah Arts Council" is a state and nationally funded government entity that assists with professional development and provides direct matching grants to nonprofit organizations across the state of Utah. The Utah Arts Council also conducts programs which provide outreach services (including financial assistance) to schools, local arts councils and organizations, community centers, performing groups, and individual artists.

**R277-490-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-162 which directs the Board to establish a grant program for [school districts and charter schools]LEAs to hire qualified [full-time] arts professionals to encourage student participation in the arts in Utah public schools and embrace student learning in Core subject areas.

B. The purpose of this rule is:

(1) to implement the Beverly Taylor Sorenson Elementary Arts Learning Program model in public schools through [school districts, charter schools]LEAs and consortia that submit grants to hire [highly qualified, full-time] arts specialists who are highly qualified and paid on the licensed teacher salary schedule;

(2) to distribute funds to arts specialists through [school districts and charter schools]LEAs to purchase supplies and equipment;

(3) to allow ten Utah school districts/consortia to hire arts coordinators;

(4) to establish partnerships within established networks with Utah higher education institutions to provide pre-service training, professional development, research and leadership for arts educators and arts education in Utah public schools; and

(5) appropriately monitor, evaluate and report programs and [p]Program results.

**R277-490-3. Arts Specialist Grant Program.**

A. [School districts/charter schools]LEAs or consortia of [school districts or charter schools]LEAs may submit grant requests consistent with time lines provided in this rule.

B. [School district/charter school]LEA consortia:

(1) [School districts/charter schools]LEAs may form consortia to employ arts specialists [if the combined total student number of the consortium is not less than 300 students]appropriate for the number of students served.

(2) The [school district/charter school]LEA shall develop its proposal consistent with the Beverly Taylor Sorenson Elementary Arts Learning Program model outlined under R277-490-1C.

(3) The [school district/charter school]LEA grant shall explain the necessity or greater efficiency and benefit of an arts specialist serving several elementary schools within a consortium of [school districts or charter schools]LEAs.

(4) The ~~[school district/charter schools]~~LEA grant shall explain a schedule for the specialist(s) to serve the group of schools within several ~~[school districts or charter schools]~~LEAs similarly to an arts specialist in a single school.

(5) A consortium grant shall provide information for a consortium arts specialist's schedule that minimizes the arts specialist's travel and allows the arts specialist to be well integrated into several schools.

C. Arts specialist grant requirements

(1) Grant programs shall be developed and submitted to the Board consistent with the Beverley Taylor Sorenson Elementary Arts Learning Program model described in R277-490-1C.

(2) Grant applications shall ~~[describe arts specialist recruitment efforts]~~.

~~(3) Grant applications shall describe plans, including timelines, for:~~

~~(a) advertising for specialist(s);~~

~~(b) employing specialists, including criminal background checks, as required;~~

~~(c) a plan for working with specialists to institutionalize the arts program by encouraging and assisting arts specialists to acquire educator licenses or become relicensed;~~

~~(d) a plan for training specialists, providing support for specialists (including mentoring) and appropriate evaluation of specialists.]include documents of compliance with the collaboratively developed implementation requirements. These requirements shall be developed in consultation with a committee with representative members of stakeholder groups in the Program.~~

D. ~~[School districts/charter schools]~~LEAs shall review grant applications and forward approved applications to the USOE.

E. Arts specialist timelines

(1) Continuing Beverley Taylor Sorenson schools shall complete assurances as provided by the USOE and submit to school districts by May 1, annually.

(2) New Beverley Taylor Sorenson schools shall complete applications as provided by the USOE and submit to school districts by May 1, annually.

(3) ~~[School districts/charter schools]~~LEAs shall submit completed applications requiring funding to the USOE by May 7 annually.

(4) The Board, after close consultation with the Utah Arts Council, shall designate schools/consortia for funding no later than June 1 annually.

F. Distribution of funds for arts specialists

(1) Continuing Beverley Taylor Sorenson ~~[school districts/charter schools]~~LEAs shall submit complete information of salaries (including benefits) of all Beverley Taylor Sorenson specialists employed by the ~~[school district/charter school]~~LEA, as requested by the USOE.

(2) The USOE shall distribute funds to continuing Beverley Taylor Sorenson ~~[school districts/charter schools]~~LEAs annually in equal amounts per program, consistent with Section 53A-17a-162(6) and (7).

(3) The USOE shall distribute funds designated in Section 53A-17a-162(7) to additional Beverley Taylor Sorenson ~~[school districts/charter schools]~~LEAs.

**R277-490-4. Distribution of Funds for Arts Specialist Supplies.**

A. The Board shall distribute funds for arts specialist supplies to ~~[school districts/charter schools]~~LEAs/consortia ~~[no later than July 1 annually]~~as available.

B. ~~[School districts/charter schools]~~LEAs shall distribute funds to participating schools as provided in the approved ~~[school district/school]~~LEA/consortia grant and consistent with ~~[school district/charter school]~~LEA procurement policies.

C. ~~[School districts/charter schools]~~LEAs/consortia shall require arts specialists to provide adequate documentation of arts supplies purchased consistent with the school/consortium plan, this rule and the law.

D. Summary information about effective supplies and equipment shall be provided in the school/consortium evaluation of the ~~[p]~~Program.

**R277-490-5. ~~[School Districts/Charter Schools]~~LEA/Consortia Employment of ~~[School District/Charter School]~~LEA/Consortia Arts Coordinators.**

A. ~~[School districts/charter schools]~~LEAs/consortia may apply for funds to employ full-time arts coordinators in their ~~[school district/charter school]~~LEAs/consortium.

B. Applicants shall explain how arts coordinators will be used consistent with the Beverley Taylor Sorenson Elementary Arts Learning Program model, what requirements arts coordinators must meet, and what training will be provided by whom.

C. Applicants shall provide documentation of committed matching funds that equal the request from the ~~[school district/charter school]~~LEA/consortium.

D. Preference shall be given to applicants that demonstrate in their proposed recruitment and use of coordinators diligent and creative efforts to employ arts coordinators who mirror the minority or unique populations that make up the schools in which coordinators will work.

E. The Board, following close consultation with the Utah Arts Council, shall select ~~[school districts/charter schools]~~LEAs/consortia to receive funds under this section.

F. Funds shall be distributed to designated ~~[school districts/charter schools]~~LEAs/consortia no later than July 1 annually.

**R277-490-6. Arts Program Partnership with Utah Institutions of Higher Education for Pre-service, Professional Development, Research, and Leadership Training.**

A. The Board shall work closely with the Utah Arts Council to identify interested Utah higher education institutions eligible, prepared and geographically and programmatically suited to work with identified arts specialists, arts coordinators and the schools and programs in which specialists/coordinators are employed.

B. The Board, in close partnership with the Utah Arts Council, shall determine funding and payment timelines to eligible Utah higher education institutions for designated services as appropriate and necessary.

**R277-490-7. Beverley Taylor Sorenson Elementary Arts Learning Program Evaluation and Reporting.**

A. The Board, in consultation with the Utah Arts Council, shall contract annually~~[, beginning in May 2009,]~~ with an



independent qualified evaluator through the state procurement process.

B. The Board and the Utah Arts Council shall jointly report annually to the Education Interim Committee as provided in Section 53A-17a-162(6).

**KEY: arts program, grants, public schools**

**Date of Enactment or Last Substantive Amendment: ~~July 11, 2011~~ 2013**

**Notice of Continuation: June 10, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-162**

**Education, Administration  
R277-602**

**Special Needs Scholarships - Funding  
and Procedures**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37743

FILED: 06/14/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide for payment provisions to be aligned with new statutory language in S.B. 103, passed in the 2013 General Legislative Session, that requires quarterly scholarship payments. Additionally, a recent Utah State Office of Education (USOE) audit of the Special Needs Scholarship Program and subsequent report, require development of written policies and procedures that address funding, retroactive or partial scholarship payments, verification of eligible private schools, and requirements for student records.

**SUMMARY OF THE RULE OR CHANGE:** The amended rule provides for "quarterly payments" to eligible schools; private schools to develop procedures for verification of funding issues; required background checks for school personnel; and protection of student records.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-1a-707 and Subsection 53A-1-401(3) and Subsection 53A-1a-706(5)(b)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The rule provides for payment provisions consistent with 2013 legislation and language regarding development of written policies and procedures that will be addressed by existing USOE staff within existing budgets.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The amendments to this rule do not apply to local education agencies.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. The amendments to the rule direct providers be paid quarterly, but do not change the payment amounts.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The amendments apply to payment to providers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. The amendments to the rule affect the payment timelines.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

**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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013**

**AUTHORIZED BY:** Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277- 602. Special Needs Scholarships - Funding and Procedures.**

**R277-602-1. Definitions.**

A. "Agreed upon procedure" for purposes of this rule means the agreed upon procedure as provided for under Section 53A-1a-705(1)(b)(i)(B).

B. "Annual assessment" for purposes of this rule means a formal testing procedure carried out under prescribed and uniform conditions that measures students' academic progress, consistent with Section 53A-1a-705(1)(f).

C. "Appeal" for purposes of the rule means an opportunity to discuss/contest a final administrative decision consistent with and expressly limited to the procedures of this rule.

D. "Assessment team" means the individuals designated under Section 53A-1a-703(1).

E. "Audit of a private school" for purposes of this rule means a financial audit provided by an independent certified public accountant, as provided under Section 53A-1a-705(1)(b).

F. "Board" means the Utah State Board of Education.

G. "Days" means school days unless specifically designated otherwise in this rule.

H. "Disclosure to parents" for purposes of this rule means the express acknowledgments and acceptance required under Section 53A-1a-704(5) as part of parent application available through schools districts.

I. "Eligible student" for purposes of this rule means:

(1) the student's parent resides in Utah;

(2) the student has a disability as designated in 53A-1a-704(2)(b); and

(3) the student is school age.

(4) Eligible student also means that the student was enrolled in a public school in the school year prior to the school year in which the student will be enrolled in a private school, has an IEP and has obtained acceptance for admission to an eligible private school; and

(5) The requirement to be enrolled in a public school in the year prior and have an IEP does not apply if:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty that the student has a disability and would qualify for special education services if enrolled in a public school and the appropriate level of special education services which would be provided were the student enrolled in a public school.

J. "Enrollment" for purposes of this rule means that the student has completed the school enrollment process, the school maintains required student enrollment information and documentation of age eligibility, the student is scheduled to receive services at the school, the student attends regularly, and has been accepted consistent with R277-419 and the student's IEP.

K. "Final administrative action" for purposes of this rule means the concluding action under Section 53A-1a-701 through 53A-1a-710 and this rule.

L. "Individual education program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Board Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

M. "Private school that has previously served students with disabilities" means a school that:

(1) has enrolled students within the last three years under the special needs scholarship program;

(2) has enrolled students within the last three years who have received special education services under Individual Services Plans (ISP from the school district where the school is geographically located; or

(3) can provide other evidence to the Board that is determinative of having enrolled students with disabilities within the last three years.

N. "Special Needs Scholarship Appeals Committee (Appeals Committee)" means a committee comprised of:

(1) the special needs scholarship coordinator;

(2) the USOE Special Education Director;

(3) one individual appointed by the Superintendent or designee; and

(4) two Board-designated special education advocates.

O. "USOE" means the Utah State Office of Education.

P. "Warrant" means payment by check to a private school.

#### **R277-602-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, Section 53A-1a-706(5)(b) which provides for Board rules to establish timelines for payments to private schools, Section 53A-3-410(6)(b)(i)(c) which provides for criminal background checks for employees and volunteers, Section 53A-1a-707 which provides for Board rules about eligibility of students for scholarships and the application process for students to participate in the scholarship program, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to outline responsibilities for parents/students, public schools, school districts or charter schools, and eligible private schools that accept scholarships from special needs students and the State Board of Education in providing choice for parents of special needs students who choose to have their children served in private schools and in providing accountability for the citizenry in the administration and distribution of the scholarship funds.

#### **R277-602-3. Parent/Guardian Responsibilities.**

A. If the student is enrolled in a public school or was enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent/guardian shall submit an application, available from the USOE or online[[at www.usoe.org](http://www.usoe.org)], to the school district or charter school within which the parent/guardian resides.

(1) The parent shall complete all required information on the application and submit the following documentation with the application form:

(a) documentation that the parent/guardian is a resident of the state of Utah;

(b) documentation that the student is at least five years of age before September 2 of the year of enrollment, consistent with Section 53A-3-402(6);

(c) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(d) documentation that the student has satisfied R277-602-3A or B; and

(e) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705;

(2) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

(3) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

B. If the student was not enrolled in a public school in the year previous to the year in which the scholarship is sought, the

parent/guardian shall submit an application to the school district in which the private school is geographically located (school district responsible for child find under IDEA, Sec. 612(a)(3)).

(1) The parent shall complete all required information on the application and submit the following documentation with application form:

(a) documentation that the parent/guardian is a resident of the state of Utah;

(b) documentation that the student is at least five years of age, before September 2 of the year of enrollment;

(c) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(d) documentation that the student has satisfied R277-602-3A or B; and

(e) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705.

(2) The parent shall sign the acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704.

~~[(3) The parent shall provide documentation of student's enrollment in an eligible private school as defined under Section 53A-1a-705;~~

[4]3 The parent shall participate in an assessment team meeting to determine if a student would qualify for special education services and the level of services for which the student would be eligible if enrolled in a public school.

C. Payment provisions - Upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the Board shall make scholarship payments quarterly in equal amounts in each school year in which a scholarship is in force.

~~[(1) The parent of a special needs scholarship student whose application is received on or before July 1 shall be eligible for quarterly scholarship payments equal to no more than the amount established in Section 53A-1a-706(2), with payments beginning on September 1.~~

~~[(2) The parent of a special needs scholarship student whose application is received after July 1, but on or before September 1 that shall be eligible for quarterly scholarship payments equal to no more than three-fourths of the amount established in Section 53A-1a-706(2), with payments beginning on November 1.~~

~~[(3) The parent of a special needs scholarship student whose application is received after September 1, but on or before November 1 shall be eligible for quarterly scholarship payments equal to no more than one-half of the amount established in Section 53A-1a-706(2), with payments beginning on February 1.~~

~~[(4) The parent of a special needs scholarship student whose application is received on or before February 15 shall be eligible for quarterly scholarship payments equal to no more than one-fourth of the amount established in Section 53A-1a-706(2), with payments beginning on April 15.~~

D. A special needs scholarship shall be effective for three years subject to renewal under Section 53A-1a-704(6).

E. The parent shall, consistent with Section 53A-1a-706(8), endorse the warrant received by the private school from the USOE no more than 15 school days after the private school's receipt of the warrant.

F. The parent shall notify the Board in writing within five days if:

~~[(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student[;] or [~~

~~[(2) the student misses more than 10 consecutive days at which point the Board may modify the payment to the private school consistent with R277-419-1J.~~

G. The parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Board.

H. The parent shall notify the Board in writing by ~~[July 1 in the second and third year]~~ March 1 annually to indicate the student's continued enrollment.

#### **R277-602-4. School District or Charter School Responsibilities.**

A. The school district or charter school that receives the student's scholarship application consistent with Section 53A-1a-704(4) shall forward applications to the Board no more than 10 days following receipt of the application.

B. The school district or charter school that received the student's scholarship application shall:

(1) receive applications from students/parents;

(2) verify enrollment of the student seeking a scholarship in previous school year within a reasonable time following contact by the Board;

(3) verify the existence of the student's IEP and level of service to the USOE within a reasonable time;

(4) provide personnel to participate on an assessment team to determine:

(a) if a student who was previously enrolled in a private school that has previously served students with disabilities would qualify for special education services if enrolled in a public school and the appropriate level of special education services which would be provided were the child enrolled in a public school for purposes of determining the scholarship amount consistent with Section 53A-1a-706(2);

(b) if a student previously receiving a special needs scholarship is entitled to receive the scholarship during the subsequent eligibility period.

C. Special needs scholarship students shall not be enrolled in public or charter schools for dual enrollment or extracurricular activities, consistent with the parents'/guardians' assumption of full responsibility for students' services under Section 53A-1a-704(5).

D. School districts and charter schools shall cooperate with the Board in cross-checking special needs scholarship student enrollment information, as requested by the Board.

E. School district and charter school notification to students with IEPs:

(1) School districts and charter schools shall provide written notice to parents or guardians of students who have an IEP of the availability of a scholarship to attend a private school through the Special Needs Scholarship Program through state special education monitoring procedures.

(2) The written notice shall consist of the following statement: School districts and charter schools are required by Utah law, 53A-1a-704(10), to inform parents of students with IEPs enrolled in public schools, of the availability of a scholarship to

attend a private school through the Carson Smith Scholarship Program.

(3) The written notice shall be provided no later than 30 days after the student initially qualifies for an IEP.

(4) The written notice shall be provided annually no later than February 1 to all students who have IEPs.

(5) The written notice shall include the address of the Internet website maintained by the Board that provides prospective applicants and their parents with program information and application forms for the Carson Smith Scholarship Program.

(6) A school district, school within a school district, or charter school that has an enrolled student who has an IEP shall post the address of the Carson Smith Internet website maintained by the Board on the school district's or school's website, if the school district or school has one.

**R277-602-5. State Board of Education Responsibilities.**

A. The Board shall provide applications, containing acknowledgments required under Section 53A-1a-704(5), for parents seeking a special needs scholarship online, at the Board offices, at school district or charter school offices, and at charter schools no later than April 1 prior to the school year in which admission is sought.

B. The Board shall provide a determination that a private school meets the eligibility requirements of Section 53A-1a-705 as soon as possible but no more than 30 days after the private school submits an application and completed documentation of eligibility. The Board may:

(1) provide reasonable timelines within the application for satisfaction of private school requirements;

(2) issue letters of warning, require the school to take corrective action within a time frame set by the Board, suspend the school from the program consistent with Section 53A-1a-708, or impose such other penalties as the Board determines appropriate under the circumstances.

(3) establish appropriate consequences or penalties for private schools that:

(a) fail to provide affidavits under Section 53A-1a-708;

(b) fail to administer assessments, fail to report assessments to parents or fail to report assessments to assessment team under Section 53a-1a-705(1)(f);

(c) fail to employ teachers with credentials required under Section 53A-1a-705(g);

(d) fail to provide to parents relevant credentials of teachers under Section 53A-1a-705(h);

(e) fail to require completed criminal background checks under Section 53A-3-410(2) and (3) and take appropriate action consistent with information received.

(4) initiate complaints and hold administrative hearings, as appropriate, and consistent with R277-602.

C. The Board shall make a list of eligible private schools updated annually and available no later than ~~May 30~~ June 1 of each year.

D. Information about approved scholarships and availability and level of funding shall be provided to scholarship applicant parents/guardians no later than ~~July 30~~ March 1 of each year.

E. The Board shall mail scholarship[s] payments directly to private schools as soon as reasonably possible consistent with Section 53A-1a-706(8).

~~[Beginning with the 2006-07 school year, the Board may begin scholarship payments to eligible private schools no earlier than July 1 but before payment dates established by Section 53A-1a-706(5)(a) if the parent/guardian negotiates a payment date with the USOE, provides reasonable advance notice to the USOE and assumes responsibility for transmission of the payment from the USOE to the private school.]~~

[G]E. If an annual legislative appropriation is inadequate to cover all scholarship applicants and documented levels of service, the Board shall establish by rule a lottery system for determining the scholarship recipients, with preference provided for under Section 53A-1a-706(1)(c)(i).

[H]G. The Board shall verify and cross-check, ~~[with school districts or charter school]~~ using USOE technology services, special needs scholarship student enrollment information consistent with Section 53A-1a-706(7).

**R277-602-6. Responsibilities of Private Schools that Receive Special Needs Scholarships.**

A. Private schools shall submit applications by ~~May~~ March 1 prior to the school year in which it intends to enroll scholarship students.

B. Applications and appropriate documentation from private schools for eligibility to receive special needs scholarship students shall be provided to the USOE on forms designated by the USOE consistent with Section 53A-1a-705(3).

C. Private schools shall satisfy criminal background check requirements for employees and volunteers consistent with Section 53A-3-410.

D. Private schools that seek to enroll special needs scholarship students shall, in concert with the parent seeking a special needs scholarship for a student, initiate the assessment team meetings required under Sections 53A-1a-704(3) and 53A-1a-704(6).

(1) Meetings shall be scheduled at times and locations mutually acceptable to private schools, applicant parents and participating public school personnel.

(2) Designated private school and public school personnel shall maintain documentation of the meetings and the decisions made for the students.

(3) Documentation regarding required assessment team meetings, including documentation of meetings for students denied scholarships or services and students admitted into private schools and their levels of service, shall be maintained confidentially by the private and public schools, except the information shall be provided to the USOE for purposes of determining student scholarship eligibility, or for verification of compliance upon request by the USOE.

E. Private schools receiving scholarship payments under this rule shall provide complete student records in a timely manner to other private schools or public schools requesting student records if parents have transferred students under Section 53A-1a-704(7).

F. Private schools shall notify the Board within five days if:

—(1)— the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student[;] or[

—(2)— the student misses more than 10 consecutive days of school.

G. Private schools shall satisfy health and safety laws and codes under Section 53A-1a-705(1)(d) including:

(1) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies and

(2) compliance with R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

H. An approved eligible private school that changes ownership shall submit a new application for eligibility to receive Carson Smith scholarship payments from the Board; the application shall demonstrate that the school continues to meet the eligibility requirements of R277-602.

(1) The application for renewed eligibility shall be received from the school within 60 calendar days of the change of ownership.

(2) Ownership changes on the date that an agreement is signed between previous owner and new owner.

(3) If the application is not received by the USOE within the 60 days, the new owner/school is presumed ineligible to receive continued Carson Smith scholarship payments from the USOE and, at the discretion of the Board, the USOE may reclaim any payments made to a school within the previous 60 days.

(4) If the application is not received by the USOE within 60 days after the change of ownership, the school is not an eligible school and shall submit a new application for Carson Smith eligibility consistent with the requirements and timelines of R277-602.

**R277-602-7. Special Needs Scholarship Appeals.**

A. A parent or legal guardian of an eligible student or a parent or legal guardian of a prospective eligible student may appeal only the following actions under this rule:

(1) alleged USOE violations of Section 53A-1a-701 through 710 or R277-602; or

(2) alleged USOE violations of required timelines.

B. The Appeals Committee may not grant an appeal contrary to the statutory provisions of Section 53A-1a-701 through 53A-1a-710.

C. An appeal shall be submitted in writing to the USOE Special Needs Scholarship Coordinator at: Utah State Office of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200.

(1) The appeal opportunity is expressly limited to an appeal submitted in writing for USOE consideration. The appeal opportunity does not include an investigation required under or similar to an IDEA state complaint investigation.

(2) Appellants have no right to additional elements of due process beyond the specific provisions of this rule.

(3) Nothing in the appeals process established under R277-602 shall be construed to limit, replace or adversely affect parental appeal rights available under IDEA.

D. Appeals shall be made within 15 days of written notification of the final administrative decision.

E. Appeals shall be considered by the Appeals Committee within 15 days of receipt of the written appeal.

F. The decision of the Appeals Committee shall be transmitted to parents no more than ten days following consideration by the Appeals Committee.

G. Appeals shall be finalized as expeditiously as possible in the joint interest of schools and students involved.

H. The Appeals Committee's decision is the final administrative action.

**KEY: special needs students, scholarships**

**Date of Enactment or Last Substantive Amendment: [February 22, 2011] 2013**

**Notice of Continuation: June 10, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-706(5)(b); 53A-3-410(6)(i)(c); 53A-1a-707; 53A-1-401(3)**

**Education, Administration**  
**R277-606**  
**Grants to Purchase or Retrofit Clean School Buses**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 37744

FILED: 06/14/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is repealed because all objectives of the rule have been met and grants to purchase and retrofit school buses are gone.

**SUMMARY OF THE RULE OR CHANGE:** This rule is repealed in its entirety.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There are no anticipated cost or savings to the state budget. All objectives of the rule have been met and grants to purchase and retrofit school buses are gone.

◆ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government. All objectives of the rule have been met and grants to purchase and retrofit school buses are gone.

◆ **SMALL BUSINESSES:** There are no anticipated cost or savings to small businesses. All objectives of the rule have been met and grants to purchase and retrofit school buses are gone.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:**

There are no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. All objectives of the rule have been met and grants to purchase and retrofit school buses are gone.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. All objectives of the rule have been met and grants to purchase and retrofit school buses are gone.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

#### **R277. Education, Administration.**

##### **[~~R277-606. Grants to Purchase or Retrofit Clean School Buses.~~**

##### **~~R277-606-1. Definitions.~~**

~~A. "Appropriation" for purposes of this rule means one-time funding provided by the 2008 Utah Legislature for the purpose of encouraging school districts to purchase or retrofit their school buses to meet federal standards as defined in 42 U.S.C. Sec. 16091, January 3, 2006, which are hereby incorporated by reference.~~

~~B. "Board" means "the State Board of Education."~~

~~C. "Matching funds" means grant funding provided by the federal government or private sources to school districts for the purchase or retrofit of clean school buses as defined in 42 U.S.C. 220 Sec. 1609.~~

~~D. "USOE" means the Utah State Office of Education.~~

##### **~~R277-606-2. Authority and Purpose.~~**

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 41-6a-1308 which directs the Board, in consultation with~~

~~school districts and the Air Quality Board, to adopt idling programs and standards for public school buses.~~

~~B. The purpose of the rule is to distribute state funds appropriated by the 2008 Legislature to school districts to match grants awarded by the federal government or private sources to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards, to the extent of funds available.~~

##### **~~R277-606-3. State Board of Education Grants and Timelines.~~**

~~A. The USOE acting on behalf of the Board shall provide an electronic application for grants under Section 41-6a-1308 and R277-606 directed to school districts.~~

~~B. The USOE shall work closely with the Utah Division of Environmental Quality (DEQ) in developing the application for state funds.~~

~~C. The USOE in consultation with the DEQ shall select grant applicants based on:~~

~~(1) availability and stability of matching funds;~~

~~(2) district support for improving school buses and maintaining and servicing the improvements;~~

~~(3) geographic and district-size diversity of applicants; and~~

~~(4) other criteria, as determined mutually by the USOE and the DEQ.~~

~~D. The USOE shall notify successful grant recipients upon application approval.~~

~~E. If there are insufficient grant applications that meet all requirements of Section 41-6a-1308 and R277-606, the Board may retain the funding and seek grant applicants throughout the 2008-09 school year and beyond, if necessary.~~

##### **~~R277-606-4. School District Responsibilities.~~**

~~A. School district applicants shall obtain government or private grants and receive state funds appropriated to the Board by the Legislature for the purposes of this rule.~~

~~B. School district applicants shall agree to participate in all evaluation and reporting requirements established by the USOE and the DEQ consistent with the purposes of Section 41-6a-1308.~~

##### **KEY: school buses, retrofit, purchases, grants**

**Date of Enactment or Last Substantive Amendment: December 8, 2008**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 41-6a-1308]**

## Education, Administration **R277-617** Smart School Technology Program

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37745

FILED: 06/14/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide criteria and procedures for the Board to select schools to participate in the Smart School Technology Program consistent with S.B. 284, passed in the 2013 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: The amendments provide updated school selection criteria, establish a timeline for selecting schools to participate in the Smart School Technology Program, and define the schools' funding match requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-709(8)(d)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The Smart School Technology Program will be administered by existing Utah State Office of Education staff within existing budgets.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Funding is provided for Smart School Technology Program participants.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Funding is provided for Smart School Technology Program participants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons. Smart School Technology Program participants will comply with the requirements in this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**

**R277-617. Smart School Technology Program.**

**R277-617-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Independent Evaluating Committee" means the committee established under Section 53A-1-709(5).
- C. "Smart School Technology Program (Program)" means a three-year program developed by a selected technology provider for a customized whole-school technology deployment plan individualized for each school selected by the Board.
- D. "Technology," for purposes of this rule, means technology provided as examples under Section 53A-1-709(7) or other technology approved by the independent evaluating committee.
- E. "USOE" means the Utah State Office of Education.
- ~~F. "Whole-school technology deployment plan" means a plan:~~
  - ~~(1) developed and implemented in a selected public school;~~
  - ~~(2) that involves every student and every teacher;~~
  - ~~(3) that uses technology identified in the school's application; and~~
  - ~~(4) that will assist the school staff in improving student academic achievement during the period of the Program.~~

**R277-617-2. Authority and Purpose.**

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, by Section 53A-1-401(3) which authorizes the Board to adopt rules in accordance with its responsibilities, and by Section 53A-1-709(8)(d) that directs the Board to make rules specifying procedures and criteria to be used for selecting schools that may participate in the Program.
- B. The purpose of this rule is to provide criteria and procedures for the Board to select schools to participate in the Smart School Technology Program.

**R277-617-3. School Selection Criteria.**

- ~~A. The independent evaluating committee shall select a minimum of 3 schools and a maximum of 10 schools, based on number of applicants, cost of developing/implementing Program in the applicant schools, school needs, funds available and other relevant information.~~
- ~~B. Public schools that include grade levels K-12 are eligible.~~
- ~~C. The independent evaluating committee shall recommend and the Board shall select proposals from schools that~~

~~represent, to the extent possible, geographic, economic and demographic diversity.~~

~~] A. Public schools that include any combination of grades K-12 shall be eligible for the Program~~

~~B. An applicant school shall provide a technology implementation plan with its application. At a minimum, the plan shall:~~

~~(1) identify technology (or technologies) that the school will employ;~~

~~(2) estimate numbers of technology devices needed based on numbers of students expected to be in the school for identified school years;~~

~~(3) explain, including explaining the use of technology and providing supporting documentation, about how technology will support the improvement of student achievement with respect to the core curriculum;~~

~~(4) explain how technology will improve students' skill using technology;~~

~~(5) explain what filtering devices or protections will be used by the school to protect students from inappropriate technology use and sites;~~

~~(6) agree that the school will provide all data and information required by the USOE for evaluation purposes, as requested by the USOE;~~

~~(7) explain the current technology capabilities and equipment available at the applicant school; and~~

~~(8) provide additional information requested by the USOE on the application.~~

**R277-617-4. ~~[Procedures]~~Required Matching Funds.**

~~] A. A Program application shall be available from the USOE by June 3, 2012.~~

~~B. The application must be received by the USOE before June 29, 2012.~~

~~C. All applications shall be evaluated by the independent evaluating committee and a joint recommendation provided to the Board by July 20, 2012.~~

~~D. The Board shall make final school selections at the August, 2012 meeting of the Board.~~

~~] A. The USOE application form will provide specific information about the level or amount of matching funds or resources that the school must provide and when the matching funds must be available.~~

~~B. The application shall explain how the school or LEA will provide matching funds to satisfy the requirement of Section 53A-1-709 (8)(d) for matching funds.~~

~~C. The applicant school shall assure the USOE that it will meet the requirement for matching local funds through the duration of the Program or may be obligated to repay the state funds to the USOE.~~

**R277-617-5. School Selection and Evaluation.**

~~] The Program shall be evaluated and reports submitted by the Board consistent with Section 53A-1-709(9):~~

~~] A. The USOE shall provide an application for the Program before May 15, 2013.~~

~~B. Completed applications shall be returned to the USOE before June 1, 2013.~~

C. The USOE shall screen all applications for compliance with all state laws, R277-617 and application requirements.

D. The USOE shall seek the participation and advice of the independent evaluating committee in selecting final applications to recommend for funding. The Board shall make final school selections.

E. To the extent possible, selected applicants shall represent geographic, economic and demographic diversity, in addition to other criteria provided in the USOE application.

F. Funded applicants shall be selected and notified before June 30, 2013.

G. Selection timelines may be modified by mutual agreement between the USOE and the independent evaluating committee.

H. The Board and the education technology provider shall evaluate the Program consistent with Section 53A-1-709(9).

**KEY: schools, technology**

**Date of Enactment or Last Substantive Amendment: ~~[July 23, 2012]~~2013**

**Notice of Continuation: June 10, 2013**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-709(8)(d)**

**Education, Administration**  
**R277-619**  
**Student Leadership Skills Development**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 37746

FILED: 06/14/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This new rule provides an application and award process consistent with S.B. 122, Student Leadership Skills Development, passed in the 2013 General Legislative Session.

**SUMMARY OF THE RULE OR CHANGE:** The new rule provides procedures for LEAs to apply for the Student Leadership Skills Development Program, school selection, and requires matching funds.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1-401(3) and Subsection 53A-17a-169(4)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The Student Leadership Skills Development Program will be administered by existing Utah State Office of Education (USOE) staff within existing budgets.



- ◆ LOCAL GOVERNMENTS: There will be costs to schools selected to participated in the Student Leadership Skills Development Program. The total appropriation for the Program is \$250,000. The USOE expects to recommend approximately 25 schools for Utah State Board of Education selection for funding, allowing \$10,000 per school plus matching funds in an amount not to exceed \$10,000 per school.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule applies to public education and does not affect businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Funding will be provided to schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Schools participating in the Student Leadership Skills Development Program will comply with program standards and procedures.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**  
**R277-619. Student Leadership Skills Development.**  
**R277-619-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Matching funds" means an amount of funds or services that shall be provided by an applicant in the Board application to meet the match requirement of Section 53A-17a-169(5)(a).
- C. "Student leadership skills development" means a program to develop students' behaviors and skills vital for learning

and career success and that will enhance a school's learning environment.

D. "USOE" means the Utah State Office of Education.

**R277-619-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-17a-169(4) which directs the Board to make rules for elementary school participation in this pilot grant program, and by Section 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide criteria, procedures and timelines for the Board to designate schools and grant awards to facilitate elementary school participation in the pilot Student Leadership Skills Development program.

**R277-619-3. School Selection Criteria.**

A. Elementary Schools that include any combination of grades K-6 shall be eligible for the program.

B. An applicant school shall provide a completed application for its pilot program that shall:

(1) indicate how the program will develop communication skills; teamwork skills; interpersonal skills; initiative and self-motivation; goal setting skills; problem solving skills; and creativity;

(2) estimate the number of students that will be served by the program;

(3) agree that the school will provide all data and information required by the USOE for evaluation and reporting purposes, as requested by the USOE;

(4) provide additional information requested by the USOE on the application including selection criteria and assurances provided in Section 53A-17a-169(5).

**R277-619-4. Required Matching Funds.**

A. The application shall explain how the school will provide matching funds to the amount requested by the applicant as required under Section 53A-17a-169(5)(a).

B. The applicant school shall assure the USOE that it shall meet the requirement for matching funds for the two-year duration of the pilot program.

C. The USOE application shall explain or require the nature of the match such as in kind, dollar for dollar, or other creative match options.

**R277-619-5. School Selection and Criteria.**

A. The USOE shall provide an application for the Student Leadership Skills Development pilot program by May 15, 2013.

B. Completed applications shall be returned to the USOE before June 17, 2013.

C. The USOE shall screen all applications for compliance with all state laws, R277-619 and application requirements.

D. The USOE may seek the participation and advice of an independent evaluating committee in recommending applications for funding. The Board shall make final school selections consistent with the criteria of Section 53A-17a-169 and R277-619.

E. The USOE expects to recommend approximately 25 schools for Board selection for funding, allowing \$10,000 per

school plus matching funds. Final number of schools and amounts per school, not to exceed \$10,000 per school, shall be determined by number and quality of applications.

E. Funded applications shall be selected and notified by July 1, 2013.

F. The Board shall evaluate the program and report on findings consistent with 53A-17a-169(7)(a).

**KEY: students, leadership skills**

**Date of Enactment or Last Substantive Amendment: 2013**

**Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-17a-169(4); 53A-1-401(3)**

## Environmental Quality, Air Quality **R307-214** National Emission Standards for Hazardous Air Pollutants

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37703

FILED: 06/06/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Rule R307-214 must be updated periodically to reflect changes to the NESHAPs as published in Title 40 of the Code of Federal Regulations (40 CFR), Parts 61 and 63. This action incorporates by reference into Rule R307-214 the July 1, 2012, version of 40 CFR, Parts 61 and 63.

**SUMMARY OF THE RULE OR CHANGE:** The following is a summary of the changes made to 40 CFR Parts 61 and 63 that affect Rule R307-214: 40 CFR Part 63, Subpart CC -- Petroleum Refineries: This section was amended when EPA withdrew the residual risk and technology review portions of the final rule amending the National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries. Part 63, Subpart TTT -- Primary Lead Smelting: This section was amended when EPA finalized amendments to the NESHAP that include revision of the rule's title and applicability provision, revisions to the stack emission limits for lead, work practice standards to minimize fugitive dust emissions, and the modification and addition of testing and monitoring and related notification, recordkeeping, and reporting requirements. It also finalized revisions to the regulatory provisions related to emissions during periods of startup, shutdown, and malfunction. Part 63, Subpart YY -- Generic MACT: Several corrections were made to definitions in the rule. Part 63, Subpart J -- Polyvinyl Chloride and Copolymer Production: This amendment established emission standards that apply at all times, including periods of startup, shutdown and malfunction, for hazardous air pollutants from polyvinyl chloride and copolymer production located at major and area

sources. The rule includes requirements to demonstrate initial and continuous compliance with the emission standards, including monitoring provisions and recordkeeping and reporting requirements. Part 63, Subpart WWWW -- Area Sources: Plating and Polishing Operations: This change clarified that the emission control requirements of the plating and polishing area source NESHAP did not apply to any bench-scale activities. The amendment also made several technical corrections and clarifications that are not significant changes in the rule's requirements. Part 63, Subpart DDDDDD -- Area Source Standards for Prepared Feeds Manufacturing: These revisions clarified the regulatory requirements for this source category and ensured that those requirements are consistent with the record. The revisions addressed the generally available control technology (GACT) requirements for pelleting processes at large, existing prepared feeds manufacturing facilities, specifically removal of the cyclone 95-percent design efficiency requirement, as well as associated requirements for compliance demonstration, monitoring, reporting, and recordkeeping; clarification of the requirement that doors be kept closed in areas where materials containing chromium and manganese are stored, used, or handled; and clarification of the requirement to install a device at the point of bulk loadout to minimize emissions.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-2-104(1)(a)

#### MATERIALS INCORPORATED BY REFERENCES:

- ◆ Updates 40 CFR, published by National Archives and Records Administration's Office of the Federal Register, July 1, 2012

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No cost or savings are anticipated for the state budget as this amendment does not create any new requirements for the state.
- ◆ **LOCAL GOVERNMENTS:** No costs or savings are anticipated for local governments as this amendment does not create any new requirements.
- ◆ **SMALL BUSINESSES:** No cost or savings is anticipated for small businesses as this amendment does not create any new requirements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No costs or savings are anticipated for persons other than small businesses, businesses, or local government entities as this amendment does not create any new requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No cost or savings is anticipated for affected persons as this amendment does not create any new requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No cost or savings is anticipated for businesses as this amendment does not create any new requirements.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON  
THIS RULE BY SUBMITTING WRITTEN COMMENTS NO  
LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 09/05/2013

AUTHORIZED BY: Bryce Bird, Director

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**R307. Environmental Quality, Air Quality.**

**R307-214. National Emission Standards for Hazardous Air Pollutants.**

**R307-214-1. Pollutants Subject to Part 61.**

The provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of July 1, [2011]2012, are incorporated into these rules by reference. For pollutant emission standards delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the director.

**R307-214-2. Sources Subject to Part 63.**

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, [2011]2012, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the director, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.

(8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.

(9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.

(10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

(11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.

(12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.

(13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

(14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.

(15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

(16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

- (31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).
- (32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).
- (33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- (34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).
- (35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
- (36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.
- (37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- (38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- (39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- (40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.
- (41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.
- (42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- (43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.
- (44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.
- (45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- (46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- (47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).
- (48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.
- (49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.
- (50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- (51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
- (52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
- (53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- (54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.
- (55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.
- (56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products.
- (57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).
- (58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.
- (59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.
- (60) 40 CFR Part 63, Subpart HHHH, National Emission Standards for Wet-Formed Fiberglass Mat Production.
- (61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.
- (62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.
- (63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.
- (64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
- (65) 40 CFR Part 63, Subpart NNNN, National Emission Standards for Large Appliances Surface Coating Operations.
- (66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.
- (67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
- (68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.
- (69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.
- (70) 40 CFR Part 63, Subpart SSSS, National Emission Standards for Metal Coil Surface Coating Operations.
- (71) 40 CFR Part 63, Subpart TTTT, National Emission Standards for Leather Tanning and Finishing Operations.
- (72) 40 CFR Part 63, Subpart UUUU, National Emission Standards for Cellulose Product Manufacturing.
- (73) 40 CFR Part 63, Subpart VVVV, National Emission Standards for Boat Manufacturing.

(74) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

(75) 40 CFR Part 63, Subpart XXXX, National Emission Standards for Tire Manufacturing.

(76) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

(77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

(78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.

(79) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

(80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.

(82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.

(83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

(84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.

(85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(97) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(98) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.

(99) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(100) 40 CFR Part 63 Subpart BBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

(101) 40 CFR Part 63 Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(102) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(103) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(104) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(105) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.

(106) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources.

(107) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.

(108) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.

(109) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.

(110) 40 CFR Part 63, Subpart OOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.

(111) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

(112) 40 CFR Part 63, Subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

(113) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(114) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(115) 40 CFR Part 63, Subpart VVVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.

(116) 40 CFR Part 63, Subpart TTTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(117) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(118) 40 CFR Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(119) 40 CFR Part 63, Subpart YYYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(120) 40 CFR Part 63, Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

(121) 40 CFR Part 63, Subpart AAAAAA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.

(122) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.

(123) 40 CFR Part 63, Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

(124) 40 CFR Part 63, Subpart DDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.

(125) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.

**KEY:** air pollution, hazardous air pollutant, MACT, NESHAP

**Date of Enactment or Last Substantive Amendment:** ~~June 7, 2012~~ 2013

**Notice of Continuation:** November 8, 2012

**Authorizing, and Implemented or Interpreted Law:** 19-2-104(1) (a)

## Environmental Quality, Air Quality R307-361 Architectural Coatings

### NOTICE OF PROPOSED RULE (New Rule)

DAR FILE NO.: 37704  
FILED: 06/06/2013

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In 2006, EPA tightened the 24-hour PM<sub>2.5</sub> national ambient air quality standard from 65 to 35 micrograms per cubic meter. Currently, seven Utah counties

have been found by EPA to not meet this standard. The manufacturing and use of many architectural coatings emit volatile organic compounds (VOC), which are precursors to the formation of PM<sub>2.5</sub>. This rule for the PM<sub>2.5</sub> State Implementation Plan will lower the VOC content of many architectural coatings sold and used in the state.

**SUMMARY OF THE RULE OR CHANGE:** This rule establishes VOC-content limits for many architectural coatings that are manufactured, offered for sale, supplied, and used within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties. Exempt from the requirements of this rule are architectural coatings that are supplied, sold, offered for sale or manufactured for use outside of the PM<sub>2.5</sub> nonattainment counties; aerosol coating products; and architectural coatings that are sold in containers with a volume of one liter or less. This proposed rule outlines container labeling requirements; reporting requirements pertaining to the distribution and sales of architectural coatings; and the required test methods in the calculation of the VOC content of architectural coatings. The rule proposes that persons subject to it must be in compliance by 09/01/2014.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-2-101 and Subsection 19-2-104(1) (a)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This rule does not create any requirements that would result in any costs or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** This rule does not create any requirements that would result in any costs or savings to local government.

♦ **SMALL BUSINESSES:** Certain industrial and commercial coatings may be impacted by this rule, and industry is working to adopt those standards by 2015. The exact costs are unknown but are expected to be moderate as the costs will be distributed nationwide.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Manufacturers are not expecting to add measurable costs to products as a result of this rule; therefore, there are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Sellers of architectural coatings may incur some costs if they have not sold their inventories of architectural coatings that do not meet the new VOC-content requirements by the sell-through date. Because sellers will have until 09/01/2017 to cycle through their existing inventories and to begin selling architectural coatings that meet the new VOC-content requirements, any costs they may incur should be very minimal. There should be no compliance costs for users as manufacturers are not expecting to add measurable costs to the products as a result of this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The EPA has estimated that the cost to implement this rule would be \$6,628 per ton VOC reduced. Because this rule is based on a national rule in which manufacturers have already produced product that meet the requirements, most of the cost has already been borne in previous years.

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

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 09/05/2013

AUTHORIZED BY: Bryce Bird, Director

### **R307. Environmental Quality, Air Quality.**

#### **R307-361. Architectural Coatings.**

##### **R307-361-1. Purpose.**

(1) The purpose of R307-361 is to limit volatile organic compounds (VOC) emissions from architectural coatings.

(2) This rule specifies architectural coatings storage, cleanup, and labeling requirements.

##### **R307-361-2. Applicability.**

R307-361 applies to any person who supplies, sells, offers for sale, applies, or solicits the application of any architectural coating, or who manufactures, blends or repackages any architectural coating for use within Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties.

##### **R307-361-3. Definitions.**

The following additional definitions apply only to R307-361.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Aerosol coating product" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application or for use in specialized equipment for ground traffic/marketing applications.

"Aluminum roof coating" means a coating labeled and formulated exclusively for application to roofs and containing at

least 84 grams of elemental aluminum pigment per liter of coating (at least 0.7 pounds per gallon).

"Appurtenance" means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including, but not limited to, bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions; pipes and piping systems; rain gutters and downspouts; stairways, fixed ladders, catwalks, and fire escapes; and window screens.

"Architectural coating" means a coating to be applied to stationary structures or their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs.

(1) Coatings applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this rule.

"Basement specialty coating" means a clear or opaque coating that is labeled and formulated for application to concrete and masonry surfaces to provide a hydrostatic seal for basements and other below-grade surfaces, meeting the following criteria:

(1) Coating must be capable of withstanding at least 10 psi of hydrostatic pressure, as determined in accordance with ASTM D7088-04 and;

(2) Coating must be resistant to mold and mildew growth and must achieve a microbial growth rating of 8 or more, as determined in accordance with ASTM D3273-00 and ASTM D3274-95.

"Bitumens" means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.

"Bituminous roof coating" means a coating that incorporates bitumens and that is labeled and formulated exclusively for roofing for the primary purpose of preventing water penetration.

"Bituminous roof primer" means a primer that incorporates bitumens and that is labeled and formulated exclusively for roofing and intended for the purpose of preparing a weathered or aged surface or improving adhesion of subsequent surface components.

"Bond breaker" means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

"Calcimine recoaters" means a flat solvent borne coating formulated and recommended specifically for coating calcimine-painted ceilings and other calcimine-painted substrates.

"Coating" means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes, and such materials include, but are not limited to, paints, varnishes, sealers, and stains.

"Colorant" means a concentrated pigment dispersion in water, solvent, or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

"Concrete curing compound" means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water and or harden or dustproof the surface of freshly poured concrete.

"Concrete/masonry sealer" means a clear or opaque coating that is labeled and formulated primarily for application to concrete and masonry surfaces to prevent penetration of water, provide resistance against abrasion, alkalis, acids, mildew, staining, or ultraviolet light, or harden or dustproof the surface of aged or cured concrete.

"Concrete surface retarder" means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

"Conjugated oil varnish" means a clear or semi-transparent wood coating, labeled as such, excluding lacquers or shellacs, based on a natural occurring conjugated vegetable oil (tung oil) and modified with other natural or synthetic resins; a minimum of 50% of the resin solids consisting of conjugated oil.

"Conversion varnish" means a clear acid coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product.

"Driveway sealer" means a coating labeled and formulated for application to worn asphalt driveway surfaces to fill cracks, seal the surface to provide protection, or to restore or preserve the appearance.

"Dry fog coating" means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

"Faux finishing coating" means a coating labeled and formulated to meet one or more of the following criteria:

(1) A glaze or textured coating used to create artistic effects, including, but not limited to, dirt, suede, old age, smoke damage, and simulated marble and wood grain;

(2) A decorative coating used to create a metallic, iridescent, or pearlescent appearance and that contains at least 48 grams of pearlescent mica pigment or other iridescent pigment per liter of coating as applied (at least 0.4 pounds per gallon); or

(3) A decorative coating used to create a metallic appearance and that contains less than 48 grams of elemental metallic pigment per liter of coating as applied (less than 0.4 pounds per gallon); or

(4) A decorative coating used to create a metallic appearance and that contains greater than 48 grams of elemental metallic pigment per liter of coating as applied (greater than 0.4 pounds per gallon) and which requires a clear topcoat to prevent the degradation of the finish under normal use conditions; or

(5) A clear topcoat to seal and protect a faux finishing coating that meets the requirements of (1) through (4) of this definition, and these clear topcoats shall be sold and used solely as part of a faux finishing coating system.

"Fire-resistive coating" means a coating labeled and formulated to protect structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials. The Fire-Resistive coating category includes sprayed fire resistive materials and intumescent fire resistive coatings that are used to bring

structural materials into compliance with federal, state, and local building code requirements. The fire-resistant coatings shall be tested in accordance with ASTM E119-08.

"Flat coating" means a coating that is not defined under any other definition in this rule and that registers gloss less than 15 on an 85 degree meter or less than 5 on a 60 degree meter according to ASTM D523-89 (1999).

"Floor coating" means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, garage floors, and other horizontal surfaces that may be subject to foot traffic.

"Form-release compound" means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form which may consist of wood, metal, or some material other than concrete.

"Graphic arts coating or sign paint" means a coating labeled and formulated for hand-application by artists using brush, airbrush, or roller techniques to indoor and outdoor signs, excluding structural components, and murals including lettering enamels, poster colors, copy blockers, and bulletin enamels.

"High-temperature coating" means a high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204 degrees Celsius (400 degrees Fahrenheit).

"Impacted immersion coating" means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage by floating ice or debris.

"Industrial maintenance coating" means a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates, including floors exposed to one or more of the following extreme environmental conditions:

(1) Immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposure of interior surfaces to moisture condensation;

(2) Acute or chronic exposure to corrosive, caustic or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

(3) Frequent exposure to temperatures above 121 degrees Celsius (250 degrees Fahrenheit);

(4) Frequent heavy abrasion, including mechanical wear and frequent scrubbing with industrial solvents, cleansers, or scouring agents; or

(5) Exterior exposure of metal structures and structural components.

"Low solids coating" means a coating containing 0.12 kilogram or less of solids per liter (1 pound or less of solids per gallon) of coating material as recommended for application by the manufacturer.

"Magnesite cement coating" means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

"Manufacturer's maximum thinning recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

"Mastic texture coating" means a coating labeled and formulated to cover holes and minor cracks and to conceal surface



irregularities, and is applied in a single coat of at least 10 mils (at least 0.010 inch) dry film thickness.

"Medium density fiberboard (MDF)" means a composite wood product, panel, molding, or other building material composed of cellulosic fibers, usually wood, made by dry forming and pressing of a resinated fiber mat.

"Metallic pigmented coating" means a coating that is labeled and formulated to provide a metallic appearance and must contain at least 48 grams of elemental metallic pigment (excluding zinc) per liter of coating as applied (at least 0.4 pounds per gallon), when tested in accordance with SCAQMD Method 318-95 but does not include coatings applied to roofs, or zinc-rich primers.

"Multi-color coating" means a coating that is packaged in a single container and that is labeled and formulated to exhibit more than one color when applied in a single coat.

"Non-flat coating" means a coating that is not defined under any other definition in this rule and that registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM D523-89 (1999).

"Non-flat/high-gloss coating" means a non-flat coating that registers a gloss of 70 or greater on a 60-degree meter according to ASTM D523-89 (1999).

"Nuclear coating" means a protective coating formulated and recommended to seal porous surfaces such as steel or concrete that otherwise would be subject to intrusion by radioactive materials. These coatings must be resistant to long-term cumulative radiation exposure according to ASTM Method 4082-02, relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed according to ASTM Method D 3912-95 (2001).

"Particleboard" means a composite wood product panel, molding, or other building material composed of cellulosic material, usually wood, in the form of discrete particles, as distinguished from fibers, flakes, or strands, which are pressed together with resin.

"Pearlescent" means exhibiting various colors depending on the angles of illumination and viewing, as observed in mother-of-pearl.

"Plywood" means a panel product consisting of layers of wood veneers or composite core pressed together with resin and includes panel products made by either hot or cold pressing (with resin) veneers to a platform.

"Post-consumer coating" means a finished coatings generated by a business or consumer that have served their intended end uses, and are recovered from or otherwise diverted from the waste stream for the purpose of recycling.

"Pre-treatment wash primer" means a primer that contains a minimum of 0.5% acid, by weight, when tested in accordance with ASTM D1613-06, that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

"Primer, sealer, and undercoater" means a coating labeled and formulated to provide a firm bond between the substrate and the subsequent coatings, prevent subsequent coatings from being absorbed by the substrate, prevent harm to subsequent coatings by materials in the substrate, provide a smooth surface for the subsequent application of coatings, provide a clear finish coat to seal the substrate, or to block materials from penetrating into or leaching out of a substrate.

"Reactive penetrating sealer" means a clear or pigmented coating that is formulated for application to above-grade concrete and masonry substrates to provide protection from water and waterborne contaminants, including, but not limited to, alkalis, acids, and salts.

(1) Reactive penetrating sealers penetrate into concrete and masonry substrates and chemically react to form covalent bonds with naturally occurring minerals in the substrate.

(2) Reactive penetrating sealers line the pores of concrete and masonry substrates with a hydrophobic coating but do not form a surface film.

(3) Reactive penetrating sealers shall meet all of the following criteria:

(a) The reactive penetrating sealer must improve water repellency at least 80% after application on a concrete or masonry substrate, and this performance shall be verified on standardized test specimens in accordance with one or more of the following standards: ASTM C67-07, ASTM C97-02, or ASTM C140-06.

(b) The reactive penetrating sealer shall not reduce the water vapor transmission rate by more than 2% after application on a concrete or masonry substrate, and this performance must be verified on standardized test specimens, in accordance with ASTM E96/E96M-05.

(c) Products labeled and formulated for vehicular traffic surface chloride screening applications shall meet the performance criteria listed in the National Cooperative Highway Research Report 244 (1981).

"Reactive penetrating carbonate stone sealer" means a clear or pigmented coating that is labeled and formulated for application to above-grade carbonate stone substrates to provide protection from water and waterborne contaminants, including but not limited to, alkalis acids, and salts and that penetrates into carbonate stone substrates and chemically reacts to form covalent bonds with naturally occurring minerals in the substrate. They must meet all of the following criteria:

(1) Improve water repellency at least 80% after application on a carbonate stone substrate. This performance shall be verified on standardized test specimens, in accordance with one or more of the following standards: ASTM C67-07, ASTM C97-02, or ASTM C140-06; and

(2) Not reduce the water vapor transmission rate by more than 10% after application on a carbonate stone substrate. This performance shall be verified on standardized test specimens in accordance with one or more of the following standards: ASTM E96/E96M-05.

"Recycled coating" means an architectural coating formulated such that it contains a minimum of 50% by volume post-consumer coating, with a maximum of 50% by volume secondary industrial materials or virgin materials.

"Residential" means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

"Roof coating" means a non-bituminous coating labeled and formulated for application to roofs for the primary purpose of preventing water penetration, reflecting ultraviolet light, or reflecting solar radiation.

"Rust preventative coating" means a coating that is for metal substrates only and is formulated to prevent the corrosion of

metal surfaces for direct-to-metal coating or a coating intended for application over rusty, previously coated surfaces but does not include coatings that are required to be applied as a topcoat over a primer or coatings that are intended for use on wood or any other nonmetallic surface.

"Secondary industrial materials" means products or by-products of the paint manufacturing process that are of known composition and have economic value but can no longer be used for their intended purpose.

"Semitransparent coating" means a coating that contains binders and colored pigments and is formulated to change the color of the surface but not conceal the grain pattern or texture.

"Shellac" means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*) and formulated to dry by evaporation without a chemical reaction.

"Shop application" means an application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

"Solicit" means to require for use or to specify by written or oral contract.

"Specialty primer, sealer, and undercoater" means a coating that is formulated for application to a substrate to block water-soluble stains resulting from fire damage, smoke damage, or water damage.

"Stain" means a semi-transparent or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

"Stone consolidant" means a coating that is labeled and formulated for application to stone substrates to repair historical structures that have been damaged by weathering or other decay mechanisms.

(1) Stone consolidants must penetrate into stone substrates to create bonds between particles and consolidate deteriorated material.

(2) Stone consolidants must be specified and used in accordance with ASTM E2167-01.

"Swimming pool coating" means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

"Thermoplastic rubber coating and mastic" means a coating or mastic formulated and recommended for application to roofing or other structural surfaces that incorporates no less than 40% by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients, including, but not limited to, fillers, pigments, and modifying resins.

"Tint base" means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

"Traffic marking coating" means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces, including, but not limited to, curbs, berms, driveways, parking lots, sidewalks, and airport runways.

"Tub and tile refinish coating" means a clear or opaque coating that is labeled and formulated exclusively for refinishing the surface of a bathtub, shower, sink, or countertop and that meets the following criteria:

(1) Has a scratch hardness of 3H or harder and a gouge hardness of 4H or harder, determined on bonderite 1000, in accordance with ASTM D3363-05;

(2) Has a weight loss of 20 milligrams or less after 1,000 cycles, determined with CS-17 wheels on bonderite 1000, in accordance with ASTM D4060-07;

(3) Withstands 1,000 hours or more of exposure with few or no #8 blisters, determined on unscribed bonderite in accordance with ASTM D4585-99, and ASTM D714-02e1; and

(4) Has an adhesion rating of 4B or better after 24 hours of recovery, determined on unscribed bonderite in accordance with ASTM D4585-99 and ASTM D3359-02.

"Veneer" means thin sheets of wood peeled or sliced from logs for use in the manufacture of wood products such as plywood, laminated veneer lumber, or other products.

"Virgin Materials" means materials that contain no post-consumer coatings or secondary industrial materials.

"VOC actual" means the weight of VOC per volume of coating and applies to coatings in the low solids coatings category and it is calculated with the following equation:

$$\text{VOC Actual} = (W_s - W_w - W_{ec}) / (V_m)$$

Where, VOC actual = the grams of VOC per liter of coating (also known as "Material VOC");

W<sub>s</sub> = weight of volatiles, in grams;

W<sub>w</sub> = weight of water, in grams;

W<sub>ec</sub> = weight of exempt compounds, in grams; and

V<sub>m</sub> = volume of coating, in liters

"VOC content" means the weight of VOC per volume of coating and is VOC regulatory for all coatings except those in the low solids category.

(1) For coatings in the low solids category, the VOC Content is VOC actual.

(2) If the coating is a multi-component product, the VOC content is VOC regulatory as mixed or catalyzed.

(3) If the coating contains silanes, siloxanes, or other ingredients that generate ethanol or other VOCs during the curing process, the VOC content must include the VOCs emitted during curing.

(4) VOC content must include maximum amount of thinning solvent recommended by the manufacturer.

"VOC regulatory" means the weight of VOC per volume of coating, less the volume of water and exempt compounds. It is calculated with the following equation:

$$\text{VOC Regulatory} = (W_s - W_w - W_{ec}) / (V_m - V_w - V_{ec})$$

Where, VOC regulatory = grams of VOC per liter of coating, less water and exempt compounds (also known as "Coating VOC");

W<sub>s</sub> = weight of volatiles, in grams;

W<sub>w</sub> = weight of water, in grams;

W<sub>ec</sub> = weight of exempt compounds, in grams;

V<sub>m</sub> = volume of coating, in liters;

V<sub>w</sub> = volume of water, in liters; and

V<sub>ec</sub> = volume of exempt compounds, in liters

"Waterproofing membrane" means a clear or opaque coating that is labeled and formulated for application to concrete and masonry surfaces to provide a seamless waterproofing membrane that prevents any penetration of liquid water into the substrate.

(1) Waterproofing membranes are intended for the following waterproofing applications: below-grade surfaces, between concrete slabs, inside tunnels, inside concrete planters, and under flooring materials.

(2) The waterproofing membrane category does not include topcoats that are included in the concrete/masonry sealer category (e.g., parking deck topcoats, pedestrian deck topcoats, etc.).

(3) Waterproofing Membranes shall:

(a) Be applied in a single coat of at least 25 mils (at least 0.025 inch) dry film thickness; and

(b) Meet or exceed the requirements contained in ASTM C836-06.

"Wood coatings" means coatings labeled and formulated for application to wood substrates only and include clear and semitransparent coatings: lacquers; varnishes; sanding sealers; penetrating oils; clear stains; wood conditioners used as undercoats; and wood sealers used as topcoats. The Wood Coatings category also includes the following opaque wood coatings: opaque lacquers, opaque sanding sealers, and opaque lacquer undercoaters but do not include clear sealers that are labeled and formulated for use on concrete/masonry surfaces or coatings intended for substrates other than wood.

"Wood preservative" means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 United States Code (U.S.C.) Section 136, et seq.).

"Wood substrate" means a substrate made of wood, particleboard, plywood, medium density fiberboard, rattan, wicker, bamboo, or composite products with exposed wood grain but does not include items comprised of simulated wood.

"Zinc-rich primer" means a coating that contains at least 65% metallic zinc powder or zinc dust by weight of total solids and is formulated for application to metal substrates to provide a firm bond between the substrate and subsequent applications of coatings and are intended for professional use only.

**R307-361-4. Exemptions.**

The coatings described in R307-361-4(1) through (3) are exempt from the requirements of R307-361.

(1) Any architectural coating that is supplied, sold, offered for sale, or manufactured for use outside of the counties in R307-361-2 or for shipment to other manufacturers for reformulation or repackaging.

(2) Any aerosol coating product.

(3) Any architectural coating that is sold in a container with a volume of one liter (1.057 quarts) or less, including kits containing containers of different colors, types or categories of coatings and two component products and including multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately be sold as one unit.

(a) The exemption in R307-361-4(3) does not include bundling of containers one liter or less, which are sold together as a unit with the intent or requirement that they be combined into one container.

(b) The exemption in R307-361-4(3) does not include packaging from which the coating cannot be applied. This

exemption does include multiple containers of one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit.

**R307-361-5. Standards.**

(1) Except as provided in R307-361-5(2) and (3), no person shall manufacture, blend, or repackage for use within the counties in R307-361-2; supply, sell, or offer for sale within the counties in R307-361-5; or solicit for application or apply within those counties any architectural coating with a VOC content in excess of the corresponding limit specified in Table 1.

TABLE 1

VOC Content Limit for Architectural and Industrial Maintenance Coatings

(Limits are expressed as VOC content, thinned to the manufacturer's maximum thinning recommendation, excluding any colorant added to tint bases.)

<u>COATING CATEGORY</u>	<u>VOC Content Limit (grams/liter)</u>
Flat coatings	50
Non-flat coatings	100
Non-flat/high-gloss coatings	150
Specialty Coatings	
Aluminum roofing	450
Basement Specialty Coatings	400
Bituminous Specialty Coatings	400
Bituminous roof coatings	270
Bituminous roof primers	350
Bond beakers	350
Calcimine recoaters	475
Concrete curing compounds	350
Concrete/masonry sealer	100
Concrete surface retarders	780
Conjugated oil varnish	450
Conversion varnish	725
Driveway sealers	50
Dry fog coatings	150
Faux finishing coatings	350
Fire resistive coatings	350
Floor coatings	100
Form-release compounds	250
Graphic arts coatings (sign paints)	500
High temperature coatings	420
Impacted Immersion Coatings	780
Industrial maintenance coatings	250
Low solids coatings	120
Magnesite cement coatings	450
Mastic texture coatings	100
Metallic pigmented coatings	500
Multi-color coatings	250
Nuclear coatings	450
Pre-treatment wash primers	420
Primers, sealers, and undercoaters	100
Reactive penetrating sealer	350
Reactive penetrating carbonate stone sealer	500
Recycled coatings	250
Roof coatings	250
Rust preventative coatings	250
Shellacs:	
Clear	730
Opaque	550
Specialty primers, sealers, and undercoaters	100
Stains	250
Stone consolidant	450

Swimming pool coatings	340
Thermoplastic rubber coatings and mastic	550
Traffic marking coatings	100
Tub and tile refinish	420
Waterproofing membranes	250
Wood coating	275
Wood Preservatives	350
Zinc-Rich Primer	340

(2) If a coating is recommended for use in more than one of the specialty coating categories listed in Table 1, the most restrictive (lowest) VOC content limit shall apply.

(a) This requirement applies to usage recommendations that appear anywhere on the coating container, anywhere on any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or anyone acting on their behalf.

(b) R307-361-5(2) does not apply to the following coating categories:

- (i) Aluminum roof coatings
- (ii) Bituminous roof primers
- (iv) High temperature coatings
- (v) Industrial maintenance coatings
- (vi) Low-solids coatings
- (vii) Metallic pigmented coatings
- (viii) Pretreatment wash primers
- (ix) Shellacs
- (x) Specialty primers, sealers and undercoaters
- (xi) Wood Coatings
- (xii) Wood preservatives
- (xiii) Zinc-rich primers
- (xiv) Calcimine recoaters
- (xv) Impacted immersion coatings
- (xvi) Nuclear coatings
- (xvii) Thermoplastic rubber coatings and mastic
- (xviii) Concrete surface retarders

(3) Sell-through of coatings. A coating manufactured prior to the effective date specified for that coating in Table 1 and that complied with the standards in effect at the time the coating was manufactured, may be sold, supplied, or offered for sale for up to three years after the specified effective date.

(a) A coating manufactured before the effective date specified for that coating in Table 1 may be applied at any time, both before and after the specified effective date, so long as the coating complied with the standards in effect at the time the coating was manufactured.

(b) R307-361-5(3) does not apply to any coating that does not display the date or date code required by R307-361-6(1) (a).

(4) Painting practices. All architectural coating containers used when applying the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging or other means, shall be closed when not in use. These architectural coating containers include, but are not limited to, drums, buckets, cans, pails, trays or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

(5) Thinning. No person who applies or solicits the application of any architectural coating shall apply a coating that is thinned to exceed the applicable VOC limit specified in Table 1.

(6) Rust preventative coatings. No person shall apply or solicit the application of any rust preventative coating manufactured before January 1, 2014 for industrial use, unless such a rust preventative coating complies with the industrial maintenance coating VOC limit specified in Table 1.

(7) Coatings not listed in Table 1. For any coating that does not meet any of the definitions for the specialty coatings categories listed in Table 1, the VOC content limit shall be determined by classifying the coating as a flat, non-flat, or non-flat/high gloss coating, based on its gloss, as defined in R307-361-3 and the corresponding flat, non-flat, or non-flat/high gloss coating VOC limit in Table 1 shall apply.

#### **R307-361-6. Container Labeling Requirements.**

(1) Each manufacturer of any architectural coating subject to R307-361 shall display the information listed in R307-361-6(1)(a) through (c) on the coating container (or label) in which the coating is sold or distributed.

(a) Date Code.

(i) The date the coating was manufactured, or a date code representing the date, shall be indicated on the label, lid or bottom of the container.

(ii) If the manufacturer uses a date code for any coating, the manufacturer shall file an explanation of each code with the director upon request.

(b) Thinning Recommendations.

(i) A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container.

(ii) This requirement does not apply to the thinning of architectural coatings with water.

(iii) If thinning of the coating prior to use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

(c) VOC Content.

(i) Each container of any coating subject to this rule shall display one of the following values, in grams of VOC per liter of coating:

(A) Maximum VOC content as determined from all potential product formulations;

(B) VOC content as determined from actual formulation data; or

(C) VOC content as determined using the test methods in R307-361-8.

(ii) If the manufacturer does not recommend thinning, the container shall display the VOC Content, as supplied.

(iii) If the manufacturer recommends thinning, the container shall display the VOC Content, including the maximum amount of thinning solvent recommended by the manufacturer.

(iv) If the coating is a multicomponent product, the container shall display the VOC content as mixed or catalyzed.

(v) If the coating contains silanes, siloxanes, or other ingredients that generate ethanol or other VOCs during the curing process, the VOC content shall include the VOCs emitted during curing.

(2) Faux finishing coatings. The labels of all clear topcoat faux finishing coatings shall prominently display the statement, "This product can only be sold or used as part of a faux finishing coating system."

(3) Industrial maintenance coatings. The label of all industrial maintenance coatings shall prominently display at least one of the following statements:

- (a) "for industrial use only;"
- (b) "for professional use only;" or
- (c) "not for residential use" or "not intended for residential use."

(4) Rust preventative coatings. The labels of all rust preventative coatings shall prominently display the statement, "For metal substrates only."

(5) Non-flat/high-gloss coatings. The labels of all non-flat/high-gloss coatings shall prominently display the words "high gloss."

(6) Specialty primers, sealers and undercoaters. The labels of all specialty primers, sealers and undercoaters shall prominently display one or more of the following descriptions:

- (a) "For blocking stains;"
- (b) "For smoke-damaged substrates;"
- (c) "For fire-damaged substrates;"
- (d) "For water-damaged substrates;" or
- (e) "For excessively chalky substrates."

(7) Reactive penetrating sealers. The labels of all reactive penetrating sealers shall prominently display the statement, "Reactive penetrating sealer."

(8) Reactive penetrating carbonate stone sealers. The labels of all reactive penetrating carbonate stone sealers shall prominently display the statement, "Reactive penetrating carbonate stone sealer."

(9) Stone consolidants. The labels of all stone consolidants shall prominently display the statement, "Stone consolidant -For professional use only."

(10) Wood coatings. The labels of all wood coatings shall prominently display the statement, "For wood substrates only."

(11) Zinc rich primers. The labels of all zinc rich primers shall prominently display one or more of the following descriptions:

- (a) "For professional use only;"
- (b) "For industrial use only;" or
- (c) "Not for residential use" or "Not intended for residential use."

#### **R307-361-7. Reporting Requirements.**

(1) Within 180 days of written request from the director, the manufacturer shall provide the director with data concerning the distribution and sales of architectural coatings, including, but not limited to:

- (a) The name and mailing address of the manufacturer;
- (b) The name, address and telephone number of a contact person;
- (c) The name of the coating product as it appears on the label and the applicable coating category;
- (d) Whether the product is marketed for interior or exterior use or both;

(e) The number of gallons sold in counties listed in R307-361-2 in containers greater than one liter (1.057 quart) and equal to or less than one liter (1.057 quart);

(f) The VOC actual content and VOC regulatory content in grams per liter;

(i) If thinning is recommended, list the VOC actual content and VOC regulatory content after maximum recommended thinning.

(ii) If containers less than one liter have a different VOC content than containers greater than one liter, list separately.

(iii) If the coating is a multi-component product, provide the VOC content as mixed or catalyzed.

(g) The names and CAS numbers of the VOC constituents in the product;

(h) The names and CAS numbers of any compounds in the product specifically exempted from the VOC definition in R307-101;

(i) Whether the product is marketed as solvent-borne, waterborne, or 100% solids;

(j) Description of resin or binder in the product;

(k) whether the coating is a single-component or multi-component product;

(l) The density of the product in pounds per gallon;

(m) The percent by weight of: solids, all volatile materials, water, and any compounds in the product specifically exempted from the VOC definition in R307-101; and

(n) The percent by volume of: solids, water, and any compounds in the product specifically exempted from the VOC definition in R307-101.

#### **R307-361-8. Test Methods.**

(1) Calculation of VOC content.

(a) For the purpose of determining compliance with the VOC content limits in Table 1, the VOC content of a coating shall be calculated by following the appropriate formula found in the definitions of VOC actual, VOC content, and VOC regulatory found in R307-361-3.

(b) The VOC content of a tint base shall be determined without colorant that is added after the tint base is manufactured.

(c) If the manufacturer does not recommend thinning, the VOC content shall be calculated for the product as supplied.

(d) If the manufacturer recommends thinning, the VOC content shall be calculated including the maximum amount of thinning solvent recommended by the manufacturer.

(e) If the coating is a multi-component product, the VOC content shall be calculated as mixed or catalyzed.

(f) The coating contains silanes, siloxanes, or other ingredients that generate ethanol or other VOC during the curing process, the VOC content shall include the VOCs emitted during curing.

(2) VOC content of coatings.

(a) To determine the VOC content of a coating, the manufacturer may use EPA Method 24, SCAQMD Method 304-91 (revised February 1996), or an alternative method, formulation data, or any other reasonable means for predicting that the coating has been formulated as intended (e.g., quality assurance checks, recordkeeping).

(b) If there are any inconsistencies between the results of EPA Method 24 test and any other means for determining VOC content, the EPA Method 24 test results will govern.

(c) The exempt compounds content shall be determined by ASTM D 3960-05, SCAQMD Method 303-91 (Revised 1993),

BAAQMD Method 43 (Revised 1996), or BAAQMD Method 41 (Revised 1995), as applicable.

(3) Methacrylate traffic marking coatings. Analysis of methacrylate multicomponent coatings used as traffic marking coatings shall be conducted according to a modification of EPA Method 24 (40 CFR 59, subpart D, Appendix A), which has not been approved for methacrylate multicomponent coatings used for purposes other than as traffic marking coatings or for other classes of multicomponent coatings.

(4) Flame spread index. The flame spread index of a fire-retardant coating shall be determined by ASTM E84-10, "Standard Test Method for Surface Burning Characteristics of Building Materials."

(5) Fire resistance rating. The fire resistance rating of a fire-resistive coating shall be determined by ASTM E119-08, "Standard Test Methods for Fire Tests of Building Construction and Materials."

(6) Gloss determination. The gloss of a coating shall be determined by ASTM D523-89 (1999), "Standard Test Method for Specular Gloss."

(7) Metal content of coatings. The metallic content of a coating shall be determined by SCAQMD Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction, SCAQMD Laboratory Methods of Analysis for Enforcement Samples."

(8) Acid content of coatings. The acid content of a coating shall be determined by ASTM D1613-06, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products."

(9) Drying times. The set-to-touch, dry-hard, dry-to-touch and dry-to-recoat times of a coating shall be determined by ASTM D1640-95 (1999), "Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature," and the tack-free time of a quick-dry enamel coating shall be determined by the Mechanical Test Method of ASTM D1640-95.

(10) Surface chalkiness. The chalkiness of a surface shall be determined by using ASTM D4214-07, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films."

(11) Exempt compounds-siloxanes. Exempt compounds that are cyclic, branched, or linear, completely methylated siloxanes, shall be analyzed as exempt compounds by ASTM D 3960-05, "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings" or by BAAQMD Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials," BAAQMD Manual of Procedures, Volume III, adopted November 6, 1996.

(12) Exempt compounds-parachlorobenzotrifluoride (PCBTF). The exempt compound PCBTF, shall be analyzed as an exempt compound by methods referenced in ASTM D 3960-05 "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings" or by BAAQMD Method 41, "Determination of Volatile Organic Compounds in Solvent Based Coatings and Related Materials Containing Parachlorobenzotrifluoride," BAAQMD Manual of Procedures, Volume III, adopted December 20, 1955.

(13) Tub and tile refinish coating adhesion. The adhesion of tub and tile coating shall be determined by ASTM D4585-99, "Standard Practice for Testing Water Resistance of Coatings Using

Controlled Condensation" and ASTM D3359-02, "Standard Test Methods for Measuring Adhesion by Tape Test."

(14) Tub and tile refinish coating hardness. The hardness of tub and tile refinish coating shall be determined by ASTM D3363-05, "Standard Test Method for Film Hardness by Pencil Test."

(15) Tub and tile refinish coating abrasion resistance. Abrasion resistance of tub and tile refinish coating shall be analyzed by ASTM D4060-07, "Standard Test Methods for Abrasion Resistance of Organic Coatings by the Taber Abraser."

(16) Tub and tile refinish coating water resistance. Water resistance of tub and tile refinish coatings shall be determined by ASTM D4585-99, "Standard Practice for Testing Water Resistance of Coatings Using Controlled Condensation" and ASTM D714-02e1, "Standard Test Method for Evaluating Degree of Blistering of Paints."

(17) Waterproofing membrane. Waterproofing membrane shall be tested by ASTM C836-06, "Standard Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course."

(18) Reactive penetrating sealer water repellency. Reactive penetrating sealer water repellency shall be analyzed by ASTM C67-07, "Standard Test Methods for Sampling and Testing Brick and Structural Clay Tile;" ASTM C97-02, "Standard Test Methods for Absorption and Bulk Specific Gravity of Dimension Stone;" or ASTM C140-06, "Standard Test Methods for Sampling and Testing Concrete Masonry Units and Related Units."

(19) Reactive penetrating sealer water vapor transmission. Reactive penetrating sealer water vapor transmission shall be analyzed ASTM E96/E96M-05, "Standard Test Method for Water Vapor Transmission of Materials."

(20) Reactive penetrating sealer -chloride screening applications. Reactive penetrating sealers shall be analyzed by National Cooperative Highway Research Report 244 (1981), "Concrete Sealers for the Protection of Bridge Structures."

(21) Stone consolidants. Stone consolidants shall be tested by using ASTM E2167-01, "Standard Guide for Selection and Use of Stone Consolidants."

(22) Radiation resistance -nuclear coatings. The radiation resistance of a nuclear coating shall be determined by ASTM D 4082-02, "Standard Test Method for Use in Light Water Nuclear Power Plants."

(23) Chemical resistance-nuclear coatings. The chemical resistance of nuclear coatings shall be determined by ASTM D3912-95 (2001), "Standard Test Method for Chemical Resistance of Coatings Used in Light Water Nuclear Power Plants."

### **R307-361-9. Compliance Schedule.**

Persons subject to this rule shall be in compliance by September 1, 2014.

**KEY: air pollution, emission controls, architectural coatings**  
**Date of Enactment or Last Substantive Amendment: 2013**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1); 19-2-101**

**Environmental Quality, Drinking Water  
R309-500  
Facility Design and Operation: Plan  
Review, Operation and Maintenance  
Requirements**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37722

FILED: 06/13/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature. The approval for waste water disposal has been changed from "Utah Division of Water Quality" to "the Director of the Division of Water Quality."

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system.

Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from the proposed rule amendment to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule amendment to the public water systems.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013**

**AUTHORIZED BY: Ken Bousfield, Director**

**R309. Environmental Quality, Drinking Water.  
R309-500. Facility Design and Operation: Plan Review,  
Operation and Maintenance Requirements.  
R309-500-1. Purpose.**

The purpose of this rule is to describe plan review procedures and requirements, clarify projects requiring review, and inspection requirements for drinking water projects. It is intended to be applied in conjunction with rules R309-500 through R309-550. Collectively, these rules govern the design, construction,

operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

#### **R309-500-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

#### **R309-500-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

#### **R309-500-4. General.**

##### (1) Construction and Operation of New Facilities.

As authorized in 19-4-106(3) of the Utah Code, the ~~[Executive Secretary]~~Director may review plans, specifications, and other data pertinent to proposed or expanded water supply systems to insure proper design and construction.

Plans and specifications and a business plan as required by R309-800-5, along with a completed project notification form, shall be submitted to the ~~[Executive Secretary]~~Director for any new water systems or previously un-reviewed water systems unless acceptable data can be presented that the proposed or existing water system will not become a "public water system" as defined in 19-4-102 of the Utah Code or in R309-110.

Construction of new facilities for public water systems or existing facilities of previously un-reviewed public drinking water systems shall conform to rules R309-500 through R309-550; the "Facility Design and Operation" rules. There may be times in which the requirements of the Facility Design and Operation rules are not appropriate. Thus, the ~~[Executive Secretary]~~Director may grant an "exception" to the Facility Design and Operation rules if it can be shown that the granting of such an exception will not jeopardize the public health.

Construction of a public drinking water project shall not begin until complete plans and specifications have been approved in writing by the ~~[Executive Secretary]~~Director unless waivers have been issued as allowed by R309-500-6(3). This approval shall be referred to as the Plan Approval.

Furthermore, no new public drinking water facility shall be put into operation until written approval to do so has been given by the ~~[Executive Secretary]~~Director or this requirement waived. This approval is referred to as the Operating Permit.

##### (2) Existing Facilities.

All existing public drinking water systems shall be capable of reliably delivering water which meets the minimum current standard of drinking water quantity and quality requirements. The ~~[Executive Secretary]~~Director may require modification of existing systems in accordance with R309-500 through R309-550 when such modifications are needed to reliably achieve minimum quantity and quality requirements.

##### (3) Operation and Maintenance of Existing Facilities.

Public drinking water system facilities shall be operated and maintained in a manner which protects the public health. As a

minimum, the operation and maintenance procedures of R309-500 through R309-550 shall be adhered to.

#### **R309-500-5. Public Drinking Water Project.**

##### (1) Definition.

A public drinking water project, requiring the submittal of a project notification form along with plans and specifications, is any of the following:

(a) The construction of any facility for a proposed drinking water system (see 19-4-106(3) of the Utah Code or R309-500-4(1) above describing the authority of the ~~[Executive Secretary]~~Director).

(b) Any addition to, or modification of, the facilities of an existing public drinking water system which may affect the quality or quantity of water delivered.

(c) Any activity, other than on-going operation and maintenance procedures, which may affect the quality or quantity of water delivered by an existing public drinking water system. Such activities include:

(i) the interior re-coating or re-lining of any raw or drinking water storage tank, or water storage chamber within any treatment facility,

(ii) the "in-situ" re-lining of any pipeline,

(iii) a change or addition of any primary coagulant water treatment chemical (excluding filter, flocculent or coagulant aids) when the proposed chemical does not appear on a list of chemicals pre-approved by the ~~[Executive Secretary]~~Director for a specific treatment facility, and

(iv) the re-development of any spring or well source or replacement of a well pump with one of different capacity.

##### (2) On-going Operation and Maintenance Procedures.

On-going operation and maintenance procedures are not considered public drinking water projects and, accordingly, are not subject to the project notification, plan approval and operating permit requirements of this rule. However, these activities shall be carried out in accordance with all operation and maintenance requirements contained in R309-500 through R309-550 and specifically the disinfection, flushing and bacteriological sampling and testing requirements of ANSI/AWWA C651-05 for pipelines, ANSI/AWWA C652-02 for storage facilities, and ANSI/AWWA C654-03 for wells before they are placed back into service. The following activities are considered to be on-going operation and maintenance procedures:

(a) pipeline leak repair,

(b) replacement of existing deteriorated pipeline where the new pipeline segment is the same size as the old pipeline or the new segment is upgraded to meet the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3),

(c) tapping existing water mains with corporation stops so as to make connection to new service laterals to individual structures,

(d) distribution pipeline additions where the pipeline size is the same as the main supplying the addition or the pipeline addition meets the minimum pipeline sizes required by R309-550-5(4) or larger sizes as determined by a hydraulic analysis in accordance with R309-550-5(3), the length is less than 500 feet and contiguous segments of new pipe total less than 1000 feet in any fiscal year,



(e) entry into a drinking water storage facility for the purposes of inspection, cleaning and maintenance, and

(f) replacement of equipment or pipeline appurtenances with the same type, size and rated capacity (fire hydrants, valves, pressure regulators, meters, service laterals, chemical feeders and booster pumps including deep well pumps).

### **R309-500-6. Plan Approval Procedure.**

#### (1) Project Notification.

The Division shall be notified prior to the construction of any "public drinking water project" as defined in R309-500-5(1) above. The notification may be prior to or simultaneous with submission of construction plans and specifications as required by R309-500-6(2) below. Notification shall be made by the management of the regulated public water system on a form provided by the Division. Information required by this form shall be determined by the Division and may include:

(a) whether the project is for a new or existing public drinking water system,

(b) the professional engineer, registered in the State of Utah, designing the project and his/her experience designing public drinking water projects within the state,

(c) the individual(s) who will be inspecting the project during construction and whether such inspection will be full-time or part time,

(d) whether required approvals or permits from other governmental agencies (e.g. local planning commissions, building inspectors, Utah Division of Water Rights) are awaiting approval by the ~~[Executive Secretary]~~Director, the agency's name and contact person,

(e) the fire marshal, fire district or other entity having legal authority to specify requirements for fire suppression in the project area,

(f) for community and non-transient non-community public water systems or any public water system treating surface water, the name of the certified operator who is, or will be, in direct responsible charge of the water system,

(g) whether the water system has a registered professional engineer employed, appointed or designated as being directly responsible for the entire system design and his or her name and whether the system is requesting waiving of plan submittal under conditions of R309-500-6 (3),

(h) the anticipated construction schedule, and

(i) a description of the type of legal entity responsible for the water system (i.e. corporation, political subdivision, mutual ownership, individual ownership, etc.) and the status of the entity with respect to the rules of the Utah Public Service Commission.

#### (2) Pre-Construction Requirements.

All of the following shall be accomplished before construction of any public drinking water project commences:

(a) Contract documents, plans and specifications for a public drinking water project shall be submitted to the Division at least 30 days prior to the date on which action is desired unless the system is eligible for and has requested waiving of plan submittal. Any submittal shall include engineering reports, pipe network hydraulic analyses, water consumption data, supporting information, evidence of rights-of-way and reference to any previously submitted master plans pertinent to the project, along with a description of a program for keeping existing water works

facilities in operation during construction so as to minimize interruption of service.

(b) Plans and specifications shall be prepared for every anticipated public water system project. The design utilized shall conform to the requirements of R309-500 through R309-550. Furthermore, the plans and specification shall be sufficiently detailed to assure that the project shall be properly constructed. Drawings shall be compatible with Division's document storage and microfilming practice. Drawings which are illegible or of unusual size shall not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(c) The plans and specifications shall be stamped and signed by a licensed professional engineer in accordance with Section 58-22-602(2) of the Utah Code.

(d) Plans and specifications shall be reviewed for conformance with R309-500 through R309-550. No work shall commence on a public water system project until a plan approval has been issued by the ~~[Executive Secretary]~~Director unless conditions outlined in R309-500-6(3) are met and waiving of plan submittal has been requested. If construction or the ordering of substantial equipment has not commenced within one year, a renewal of the Plan Approval shall be obtained prior to proceeding with construction.

(e) If, in the judgment of the ~~[Executive Secretary]~~Director, alternate designs or specific solutions can protect the public health to the same or greater extent as achieved in R309-500 through R309-550, the ~~[Executive Secretary]~~Director may grant an exception thereto (see the third paragraph of R309-500-4(1)).

(f) Novel equipment or treatment techniques may be developed which are not specifically addressed by these rules. These may be accepted by the ~~[Executive Secretary]~~Director if it can be shown that:

(i) the technique will produce water meeting the requirements of R309-200 of these rules,

(ii) the ~~[Executive Secretary]~~Director has determined that it will protect public health to the same extent provided by comparable treatment processes outlined in these rules, and

(iii) the ~~[Executive Secretary]~~Director has determined the technique is as reliable as any comparable treatment process outlined in these rules.

#### (3) Waiving of Plan Submittal Requirement.

With identification of a professional engineer, as indicated below, on a project notification form the plan submittal requirement may be waived for certain projects. In these instances, in lieu of plans and specifications, a "certification of rule conformance" shall be submitted along with the additional information required for an operating permit (see R309-500-9), signed by the professional engineer identified to ~~[Executive Secretary]~~Director in (b) or, if the system has not employed, appointed, or designated such, the registered professional engineer who prepared the items in (a). Projects eligible for this waiving of plan submittal are:

(a) distribution system improvements (excluding pressure reducing valve stations and in-line booster pump stations) which conform to a "master plan" previously reviewed and approved by the ~~[Executive Secretary]~~Director and installed in accordance with the system's standard installation drawings, also previously reviewed and approved by the ~~[Executive Secretary]~~Director, or

(b) distribution system improvements consisting solely of pipelines and pipeline appurtenances (excluding pressure reducing valve stations and in-line booster pump stations);

(i) less than or equal to 4 inches in diameter in water systems (without fire hydrants) serving solely a residential population less than 3,300;

(ii) less than or equal to 8 inches in diameter in water systems (with fire hydrants) providing water for mixed use (commercial, industrial, agricultural and/or residential) to a population less than 3,300;

(iii) less than or equal to 12 inches in diameter in water systems (with fire hydrants) providing water for mixed use to a population between 3,300 and 50,000;

(iv) less than or equal to 16 inches in diameter in water systems (with fire hydrants) providing water for mixed use to a population greater than 50,000.

Additionally, the above systems in (b) shall employ, appoint or designate a registered professional engineer who is directly responsible for the entire public water system design and identify this individual to the ~~[Executive Secretary]~~ Director as well as have standard installation drawings previously reviewed and approved by the ~~[Division]~~ Director before being eligible for waiving of plan submittal requirements.

#### **R309-500-7. Inspection During Construction.**

Staff from the Division, or the appropriate local health department, after reasonable notice and presentation of credentials may make visits to the work site to assure compliance with these rules.

#### **R309-500-8. Change Orders.**

Any deviations from approved plans or specifications affecting capacity, hydraulic conditions, operating units, the functioning of water treatment processes, or the quality of water to be delivered, shall be reported to the ~~[Executive Secretary]~~ Director. If deemed appropriate, the ~~[Executive Secretary]~~ Director may require that revised plans and specifications be submitted for review. Revised plans or specifications shall be submitted to the Division in time to permit the review and Director's approval of such plans or specifications before any construction work, which will be affected by such changes, is begun.

#### **R309-500-9. Issuance of Operating Permit.**

The Division shall be informed when a public drinking water project, or a well-defined phase thereof, is at or near completion. The new or modified facility shall not be used until an "Operating Permit" is issued, in writing, by the ~~[Executive Secretary]~~ Director. This permit shall not be issued until all of the following items are submitted and found to be acceptable for all projects with the exception of distribution lines (including in-line booster pump stations or pressure reducing stations), which may be placed into service prior to submittal of all items if the professional engineer responsible for the entire system, as identified to the ~~[Executive Secretary]~~ Director, has received items (1) and (4):

(1) a statement from a registered professional engineer that all conditions of Plan Approval were accomplished ("certification of rule conformance"),

(2) as-built "record" drawings; unless no changes are made from previously submitted and approved plans during construction,

(3) confirmation that a copy of the as-built "record" drawings has been received by the water system owner,

(4) evidence of proper flushing and disinfection in accordance with the appropriate ANSI/AWWA Standard,

(5) where appropriate, water quality data

(6) a statement from the Engineer indicating what changes to the project were necessary during construction, and certification that all of these changes were in conformance with these rules ("certification of rule conformance"),

(7) all other documentation which may have been required during the plan review process, and

(8) confirmation that the water system owner has been provided with an Operation and Maintenance manual for the new facility.

#### **R309-500-10. Adequacy of Wastewater Disposal.**

Plans and specifications for new water systems, or facilities required as a result of proposed subdivision additions to existing water systems, shall only be approved if the method(s) of wastewater disposal in the affected area have been approved, or been determined to be feasible, by the ~~[Utah Division of Water Quality]~~ Director of the Division of Water Quality or the appropriate local health agency.

#### **R309-500-11. Financial Viability.**

Owners of new or existing water systems are encouraged to develop realistic financial strategies for recouping the costs of constructing and operating their systems. Plans for water system facilities shall not be approved when it is obvious that public health will eventually be threatened because the anticipated usage of the system will not generate sufficient funds to insure proper operation and maintenance of the system (see also R309-352-5).

#### **R309-500-12. Fee Schedule.**

The Division may charge a fee for the review of plan and specifications. A fee schedule is available from the Division.

#### **R309-500-13. Other Permits.**

Local, county or other state permits may also be necessary before beginning construction of any drinking water project.

#### **R309-500-14. Reference Documents.**

All references made in R309-500 through R309-550 are available for inspection at the Division's office.

#### **R309-500-15. Violations of These Rules.**

Violations of rule contained in R309-500 through R309-550 are subject to the provisions of the Utah Safe Drinking Water Act (Title 19, Chapter 4 Section 109 of the Utah Code) and may be subject to fines and penalties.

**KEY: drinking water, plan review, operation and maintenance requirements, permits**

**Date of Enactment or Last Substantive Amendment: [May 12, 2009]2013**

**Notice of Continuation: March 22, 2010**  
**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## Environmental Quality, Drinking Water **R309-510** Facility Design and Operation: Minimum Sizing Requirements

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37724

FILED: 06/13/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system.

Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from the proposed rule amendment to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule amendment to the public water systems.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013**

**AUTHORIZED BY: Ken Bousfield, Director**

**R309. Environmental Quality, Drinking Water.**  
**R309-510. Facility Design and Operation: Minimum Sizing Requirements.**  
**R309-510-1. Purpose.**

This rule specifies requirements for the sizing of public drinking water facilities such as sources (along with their associated treatment facilities), storage tanks, and pipelines. It is intended to be applied in conjunction with R309-500 through R309-550. Collectively, these rules govern the design, construction, operation

and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

**R309-510-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

**R309-510-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

**R309-510-4. General.**

This rule provides estimates of quantities and flow rates which shall be used in the design of new systems, or if there is an absence of data collected by the public water system meeting the required confidence level for a reduction mentioned below, when evaluating water sources, storage facilities and pipelines. Within each of these three broad categories, the designer shall ascertain the contributions on demand from the indoor use of water, the outdoor use of water, and fire suppression activities (if required by local authorities). These components must be added together to determine the total demand on a given facility.

**R309-510-5. Reduction of Requirements.**

If acceptable data are presented, certain number of days of peak day demand to establish minimum source capacity; certain number of years of annual demand to establish minimum water right requirements; and certain number of readings of peak hourly demand to establish minimum peak instantaneous demand; showing that the requirements made herein are excessive for a given project, the requirements may be appropriately reduced to the 90th percentile of readings, on a case by case basis by the ~~[Executive Secretary]~~Director. In the case of Recreational Home Developments, in order to qualify for a quantity reduction, not only must the actual water consumption be less than quantities required by rule but enforceable policy restrictions must have been approved which prevent the use of such dwellings as a permanent domicile and these restrictions shall have been consistently enforced. The ~~[Executive Secretary]~~Director may re-consider any reduced minimums if the nature and use of the system changes.

**R309-510-6. Water Conservation.**

This rule is based upon typical current water consumption patterns in the State of Utah. They may be excessive in certain settings where legally enforceable water conservation measures exist. In these cases the requirements made in this section may be reduced on a case-by-case basis by the ~~[Executive Secretary]~~Director.

**R309-510-7. Source Sizing.**

(1) Peak Day Demand and Average Yearly Demand.

Sources shall legally and physically meet water demands under two separate conditions. First, they shall meet the anticipated

water demand on the day of highest water consumption. This is referred to as the peak day demand. Second, they shall also be able to provide one year's supply of water, the average yearly demand.

(2) Estimated Indoor Use.

In the absence of firm water use data, Tables 510-1 and 510-2 shall be used to estimate the peak day demand and average yearly demand for indoor water use.

TABLE 510-1  
Source Demand for Indoor Use

Type of Connection	Peak Day Demand	Average Yearly Demand
Year-round use		
Residential	800 gpd/conn	146,000 gal./conn
ERC	800 gpd/ERC	146,000 gal./ERC
Seasonal/Non-residential use		
Modern Recreation Camp	60 gpd/person	(see note 1)
Semi-Developed Camp		
a. with pit privies	5 gpd/person	(see note 1)
b. with flush toilets	20 gpd/person	(see note 1)
Hotel, Motel, and Resort	150 gpd/unit	(see note 1)
Labor Camp	50 gpd/person	(see note 1)
Recreational Vehicle Park	100 gpd/pad	(see note 1)
Roadway Rest Stop	7 gpd/vehicle	(see note 1)
Recreational Home Development	400 gpd/conn	(see note 1)

Note 1. Annual demand shall be based on the number of days the system will be open during the year times the peak day demand unless data acceptable to the ~~[Division]~~Director, with a confidence level of 90% or greater showing a lesser annual consumption, can be presented.

TABLE 510-2  
Source Demand for Individual Establishments<sup>(a)</sup>  
(Indoor Use)

Type of Establishment	Peak Day Demand (gpd)
Airports	
a. per passenger	3
b. per employee	15
Boarding Houses	
a. for each resident boarder and employee	50
b. for each nonresident boarders	10
Bowling Alleys, per alley	
a. with snack bar	100
b. with no snack bar	85
Churches, per person	5
Country Clubs	
a. per resident member	100
b. per nonresident member present	25
c. per employee	15
Dentist's Office	
a. per chair	200
b. per staff member	35
Doctor's Office	
a. per patient	10
b. per staff member	35
Fairgrounds, per person	1
Fire Stations, per person	
a. with full-time employees and food prep.	70
b. with no full-time employees and no food prep.	5
Gyms	
a. per participant	25
b. per spectator	4
Hairdresser	
a. per chair	50
b. per operator	35
Hospitals, per bed space	250
Industrial Buildings, per 8 hour shift,	

per employee (exclusive of industrial waste)	
a. with showers	35
b. with no showers	15
Launderette, per washer	580
Movie Theaters	
a. auditorium, per seat	5
b. drive-in, per car space	10
Nursing Homes, per bed space	280
Office Buildings and Business Establishments, per shift, per employee (sanitary wastes only)	
a. with cafeteria	25
b. with no cafeteria	15
Picnic Parks, per person (toilet wastes only)	5
Restaurants	
a. ordinary restaurants (not 24 hour service)	35 per seat
b. 24 hour service	50 per seat
c. single service customer utensils only	2 per customer
d. or, per customer served (includes toilet and kitchen wastes)	10
Rooming House, per person	40
Schools, per person	
a. boarding	75
b. day, without cafeteria, gym or showers	15
c. day, with cafeteria, but no gym or showers	20
d. day, with cafeteria, gym and showers	25
Service Stations <sup>(b)</sup> , per vehicle served	10
Skating Rink, Dance Halls, etc., per person	
a. no kitchen wastes	10
b. Additional for kitchen wastes	3
Ski Areas, per person (no kitchen wastes)	10
Stores	
a. per public toilet room	500
b. per employee	11
Swimming Pools and Bathhouses <sup>(c)</sup> , per person	10
Taverns, Bars, Cocktail Lounges, per seat	20
Visitor Centers, per visitor	5

NOTES FOR TABLE 510-2:

1. Source capacity must at least equal the peak day demand of the system. Estimate this by assuming the facility is used to its maximum.
2. Generally, storage volume must at least equal one average day's demand.
3. Peak instantaneous demands may be estimated by fixture unit analysis as per Appendix E of the 2006 International Plumbing Code.
  - (a) When more than one use will occur, the multiple use shall be considered in determining total demand. Small industrial plants maintaining a cafeteria and/or showers and club houses or motels maintaining swimming pools and/or laundries are typical examples of multiple uses. Uses other than those listed above shall be considered in relation to established demands from known or similar installations.
  - (b) or 250 gpd per pump,
  - (c)  $20 \times \{ \text{Water Area (Ft}^2) / 30 \} + \text{Deck Area (Ft}^2)$

(3) Estimated Outdoor Use.

In the absence of firm water use data, Table 510-3 shall be used to estimate the peak day demand and average yearly demand for outdoor water use. The following procedure shall be used:

- (a) Determine the location of the water system on the map entitled Irrigated Crop Consumptive Use Zones and Normal Annual Effective Precipitation, Utah as prepared by the Soil Conservation Service (available from the Division). Find the numbered zone, one through six, in which the water system is located (if located in an area described "non-arable" find nearest numbered zone).

(b) Determine the net number of acres which may be irrigated. This is generally done by starting with the gross acreage, then subtract out any area of roadway, driveway, sidewalk or patio pavements along with housing foundation footprints that can be reasonably expected for lots within a new subdivision or which is representative of existing lots. Before any other land area which may be considered "non-irrigated" (e.g. steep slopes, wooded areas, etc.) is subtracted from the gross area, the ~~Division~~ **Director** shall be consulted and agree that the land in question will not be irrigated.

(c) Refer to Table 510-3 to determine peak day demand and average yearly demand for outdoor use.

(d) The results of the indoor use and outdoor use tables shall be added together and source(s) shall be legally and physically capable of meeting this combined demand.

TABLE 510-3  
Source Demand for Irrigation  
(Outdoor Use)

Map Zone	Peak Day Demand (gpm/irrigated acre)	Average Yearly Demand (AF/irrigated acre)
1	2.26	1.17
2	2.80	1.23
3	3.39	1.66
4	3.96	1.87
5	4.52	2.69
6	4.90	3.26

(4) Accounting for Variations in Source Yield.

The design engineer shall consider whether flow from the source(s) may vary. Where flow varies, as is the case for most springs, the minimum flow rate shall be used in determining the number of connections which may be supported by the source(s). Where historical records are sufficient, and where peak flows from the source(s) correspond with peak demand periods, the ~~Executive Secretary~~ **Director** may grant an exception to this requirement.

**R309-510-8. Storage Sizing.**

(1) General.

Each storage facility shall provide:

- (a) equalization storage volume, to satisfy average day demands for water for indoor use as well as outdoor use,
- (b) fire suppression storage volume, if the water system is equipped with fire hydrants and intended to provide fire suppression water, and
- (c) emergency storage, if deemed appropriate by the water supplier or the ~~Executive Secretary~~ **Director**, to meet demands in the event of an unexpected emergency situation such as a line break or a treatment plant failures.

(2) Equalization Storage.

- (a) All public drinking water systems shall be provided with equalization storage. The amount of equalization storage which must be provided varies with the nature of the water system, the extent of outdoor use and the location of the system.
- (b) Required equalization storage for indoor use is provided in Table 510-4. Storage requirements for non-community systems not listed in this table shall be determined by calculating the average day demands from the information given in Table 510-2.

TABLE 510-4  
Storage Volume for Indoor Use

Type	Volume Required (gallons)
<b>Community Systems</b>	
Residential; per single resident service connection	400
Non-Residential; per Equivalent Residential Connection (ERC)	400
<b>Non-Community Systems</b>	
Modern Recreation Camp; per person	30
Semi-Developed Camp; per person	
a. with Pit Privies	2.5
b. with Flush Toilets	10
Hotel, Motel and Resort; per unit	75
Labor Camp; per unit	25
Recreational Vehicle Park; per pad	50
Roadway Rest Stop; per vehicle	3.5
Recreational Home Development; per connection	400

(c) Where the drinking water system provides water for outdoor use, such as the irrigation of lawns and gardens, the equalization storage volumes estimated in Table 510-5 shall be added to the indoor volumes estimated in Table 510-4. The procedure for determining the map zone and irrigated acreage for using Table 510-5 is outlined in Section R309-510-7(3).

TABLE 510-5  
Storage Volume for Outdoor Use

Map Zone	Volume Required (gallons/irrigated acre)
1	1,782
2	1,873
3	2,528
4	2,848
5	4,081
6	4,964

(3) Fire Suppression Storage.

Fire suppression storage shall be required if the water system is intended to provide fire fighting water as evidenced by fire hydrants connected to the piping. The design engineer shall consult with the local fire suppression authority regarding needed fire flows in the area under consideration. This information shall be provided to the Division. Where no local fire suppression authority exists, needed fire suppression storage shall be assumed to be 120,000 gallons (1000 gpm for 2 hours).

(4) Emergency Storage.

Emergency storage shall be considered during the design process. The amount of emergency storage shall be based upon an assessment of risk and the desired degree of system dependability. The [Executive Secretary] Director may require emergency storage when it is warranted to protect public health and welfare.

**R309-510-9. Distribution System Sizing.**

(1) General Requirements.

The distribution system shall be designed to insure that minimum water pressures as required in R309-105-9 exist at all points within the system. If the distribution system is equipped with fire hydrants, the Division will require a letter from the local fire authority stating the fire flow and duration required of the area to insure the system shall be designed to provide minimum pressures as required in R309-105-9 to exist at all points within the system

when needed fire flows are imposed upon the peak day demand flows of the system.

(2) Indoor Use, Estimated Peak Instantaneous Demand.

(a) For community water systems and large non-community systems, the peak instantaneous demand for each pipeline shall be assumed for indoor use as:

$$Q = 10.8 \times N^{0.64}$$

where N equals the total number of ERC's, and Q equals the total flow (gpm) delivered to the total connections served by that pipeline.

For Recreational Vehicle Parks, the peak instantaneous flow for indoor use shall be based on the following:

TABLE 510-6

Peak Instantaneous Demand for Recreational Vehicle Parks

Number of Connections	Formula
0 to 59	$Q = 4N$
60 to 239	$Q = 80 + 20N^{0.5}$
240 or greater	$Q = 1.6N$

NOTES FOR TABLE 510-6:

Q is total peak instantaneous demand (gpm) and N is the maximum number of connections. However, if the only water use is via service buildings the peak instantaneous demand shall be calculated for the number of fixture units as presented in Appendix E of the 2006 International Plumbing Code.

(b) For small non-community water systems the peak instantaneous demand to be estimated for indoor use shall be calculated on a per-building basis for the number of fixture units as presented in Appendix E of the 2006 International Plumbing Code.

(3) Outdoor Use, Estimated Peak Instantaneous Demand.

Peak instantaneous demand to be estimated for outdoor use is given in Table 510-7. The procedure for determining the map zone and irrigated acreage for using Table 510-7 is outlined in Section R309-510-7(3).

TABLE 510-7

Peak Instantaneous Demand for Outdoor Use

Map Zone	Peak Instantaneous Demand (gpm/irrigated acre)
1	4.52
2	5.60
3	6.78
4	7.92
5	9.04
6	9.80

(4) Fire Flows.

(a) Distribution systems shall be designed to deliver needed fire flows if fire hydrants are provided. The design engineer shall consult with the local fire suppression authority regarding needed fire flows in the area under consideration. This information shall be provided to the Division. Where no local fire suppression authority exists, needed fire flows shall be assumed to be 1000 gpm unless the local planning commission provides a letter indicating that the system will not be required to provide any fire flows, in which case fire hydrants will not be allowed to be installed on any mains.

(b) If a distribution system is equipped with fire hydrants, the system shall be designed to insure that minimum pressures

required by R309-105-9 exist at all points within the system when fire flows are added to the peak day demand of the system. Refer to Section R309-510-7 for information on determining the peak day demand of the system.

**KEY: drinking water, minimum sizing, water conservation**

**Date of Enactment or Last Substantive Amendment: [~~April 27, 2009~~2013]**

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

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## Environmental Quality, Drinking Water **R309-511** Hydraulic Modeling Requirements

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37725

FILED: 06/13/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system. Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from the proposed rule amendment to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule amendment to the public water systems.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013**

**AUTHORIZED BY: Ken Bousfield, Director**

**R309. Environmental Quality, Drinking Water.****R309-511. Hydraulic Modeling Requirements.****R309-511-1. Purpose.**

The purpose of this rule is to ensure that the increased water demand created by new construction will not adversely affect existing or new water users. This purpose will be accomplished by requiring the public water system or its agent to evaluate the water delivery system using a hydraulic model and certify to the ~~[Division]~~Director that the project will not adversely impact the system. It is intended that the public water system or its agent will use the findings of the hydraulic model to design improvements providing satisfactory service to both existing and new water users. This rule requires the public water system or its agent to certify that the design meets minimum flow requirements of R309-510 and pressure requirements as set forth in rule R309-105-9.

**R309-511-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

**R309-511-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

"The public water system or its agent" is the individual responsible for signing the certification and preparing the Hydraulic Modeling Design Elements Report. This individual shall be a registered professional engineer, licensed to practice in the State of Utah.

**R309-511-4. General.**

## (1) Rule Applicability.

(a) This rule applies to public drinking water systems categorized as community water systems as defined by rule R309-100-4(2) and to non-transient non-community water systems that have system demands higher than required by R309-510 or with demands for fire suppression. All public drinking water systems are still required to comply with R309-550-5 with respect to water main design which may require a hydraulic analysis. Further, Certifications as defined by this rule, shall be part of the submission of plans for any public drinking water project as defined in rule R309-500-5(1), except projects that meet one of the following criteria:

(i) Public drinking water projects that will not result in negative hydraulic impact, such as, but not limited to,

(A) addition of new sources in accordance with R309-515.

(B) adding disinfection, fluoridation, or other treatment facilities that do not adversely impact flow, pressure or water quality.

(C) storage tank repair or recoating.

(D) water main additions with no expansion of service (i.e. looping lines).

(E) adding transmission lines to storage or sources without adding service connections.

(F) adding pump station(s) from source or storage upstream of distribution service connections.

(G) public drinking water projects that have negligible hydraulic impact as determined by the ~~[Executive Secretary]~~Director.

(ii) Public drinking water projects that are a part of a planned phase of a master plan previously approved by the ~~[Executive Secretary]~~Director per R309-500-6(3)a).

(iii) The water system maintains and updates a hydraulic model of the system, and has designated a professional engineer responsible for overseeing the hydraulic analysis in meeting the requirements of R309-511 in writing to the ~~[Executive Secretary]~~Director.

(iv) The water system has a means that is deemed acceptable by the ~~[Executive Secretary]~~Director to gather real time data indicative of hydraulic conditions in model scenarios of R309-511-5(9), and the real time data shows the system is capable of meeting the flow and pressure requirements for the additional demands placed on the existing system.

(b) A public water system must clearly identify the reason in the plan submittal if it wishes to demonstrate that R309-511 does not apply to a new construction project. In some cases, supporting documentation may be needed.

(c) If there are existing deficiencies in the water system, the ~~[Executive Secretary]~~Director may allow a new construction project to proceed in accordance with the plan review requirements in R309-500 through 550 as long as the public water system demonstrates that the new construction project is located in a hydraulically separated area and does not adversely impact the existing deficiencies, or does not create new deficiencies within the water system.

## (2) Rule Elements.

The public water system or its agent, in connection with the submission of plans and specifications to the ~~[Executive Secretary]~~Director, shall perform the following:

(a) Conduct a hydraulic modeling evaluation consistent with the requirements as set forth in this rule and R309-510. This model shall include either the entire public drinking water system or the specific areas affected by the new construction if hydraulically separated areas exist within the water system.

(b) Calibrate the model using field measurements and observations.

(c) Certify in writing to the ~~[Executive Secretary]~~Director that the design complies with the sizing requirements of R309-510 and the minimum water pressures of R309-105-9.

(d) Prepare and submit a Hydraulic Model Design Elements Report (see R309-511-7).

(f) Prepare a System Capacity and Expansion Report if required (see R309-511-8).

**R309-511-5. Requirements for the Hydraulic Model.**

The following minimum requirements must be incorporated into hydraulic models constructed to meet these requirements:

(1) Include at least 80 percent of the total pipe lengths in the distribution system affected by the proposed project.

(2) Account for 100 percent of the flow in the distribution system affected by the proposed project. Water demand allocation must account for at least 80 percent of the flow delivered by the distribution system affected by the proposed project if customer usage in the system is metered.



(3) Include all 8-inch diameter and larger pipes. Pipes smaller than 8-inch diameter ~~should~~ shall also be included if they connect pressure zones, storage facilities, major demand areas, pumps, and control valves, or if they are known or expected to be significant conveyers of water such as fire suppression demand. Model piping does not need to include service lateral piping.

(4) Include all pipes serving areas at higher elevations, dead ends, remote areas of a distribution system, and areas with known under-sized pipelines.

(5) Include all storage facilities and accompanying controls or settings applied to govern the open/closed status of the facility that reflect standard operations.

(6) If applicable, include all pump stations, drivers (constant or variable speed), and accompanying controls or settings applied to govern their on/off/speed status that reflect various operating conditions and drivers.

(7) Include all control valves or other system features that could significantly affect the flow of water through the distribution system (i.e. interconnections with other systems, pressure reducing valves between pressure zones) reflecting various operating conditions.

(8) Impose peak day and peak instantaneous demands to the water system's facilities. These demands may be peak day and peak instantaneous demands per R309-510, the reduced demand approved by the ~~Executive Secretary~~ Director per R309-510-5, or the demands experienced by the water system which are higher than the values listed in R309-510. This may require multiple model simulations to account for the varying water demand conditions. In some cases, extended period simulations are needed to evaluate changes in operating conditions over time. This will depend on the complexity of the water system, extent of anticipated fire event and nature of the new expansion.

(9) Calibrate the model to adequately represent the actual field conditions using field measurements and observations.

(10) If fire hydrants are connected to the distribution system, account for fire suppression requirements specified by local fire authority or use the default values stated in R309-510-9(4). For significant fire suppression demand, extended simulations must contain the run time for the period of anticipated fire event. In some cases, a steady state model may be sufficient for residential fire suppression demand.

(11) Account for outdoor use, such as irrigation, if the drinking water system supplies water for outdoor use.

#### **R309-511-6. Elements of the Public Water System or Its Agent's Certification.**

(1) The public water system or its agent's certification.

The ~~Division~~ Director relies upon the professional judgment of the registered professional engineer who certifies that the hydraulic analysis and evaluation have been done properly and that the flow and pressure requirements have been met. The public water system or its agent shall, after a thorough review, submit a document to the ~~Executive Secretary~~ Director certifying that the following requirements have been met:

(a) The hydraulic model requirements as set forth in rule R309-511-5.

(b) The appropriate demand requirements as specified in this rule and rule R309-510 have been used to evaluate various operating conditions of the public drinking water system.

(c) The hydraulic model predicts that new construction will not result in any service connection within the new expansion area not meeting the minimum distribution system pressures as specified in R309-105-9.

(d) The hydraulic model predicts that new construction will not decrease the pressures within the existing water system to such that the minimum distribution system pressures as specified in R309-105-9 are not met.

(e) The calibration methodology is described and the model is sufficiently accurate to represent conditions likely to be experienced in the water delivery system.

(f) Identify the hydraulic modeling method, and if computer software was used, the software name and version used.

(2) The format of the public water system or its agent's submission.

The public water system or its agent shall submit to the ~~Executive Secretary~~ Director the following documentation:

(a) The certification as required in R309-511-6(1). The certification shall be signed, dated, and stamped by a registered professional engineer, licensed to practice in the State of Utah.

(b) A Hydraulic Model Design Elements Report (see R309-511-7). The document shall be signed, dated, and stamped by a registered professional engineer, licensed to practice in the State of Utah.

(c) For community public water systems, the water system management shall certify that they have received a copy of input and output data for the hydraulic model with the simulation showing the worst case results in terms of water system pressure and flow.

(3) The submission of supporting documentation.

The public water system or its agent shall submit a System Capacity and Expansion Report (see R309-511-8) if requested by the ~~Executive Secretary~~ Director. The document shall be signed, dated, and stamped by a registered professional engineer, licensed to practice in the State of Utah.

#### **R309-511-7. Hydraulic Model Design Elements Report.**

The public water system or its agent shall prepare a Hydraulic Model Design Elements Report along with and in support of the certification stated in R309-511-6(1). The Hydraulic Model Design Elements Report shall contain, and is not limited to, the following elements:

(1) If the public drinking water system provides water for outdoor use, the report must describe the criteria used to estimate this demand. If the irrigation demand map in R309-510-7(3) is not used, the report shall provide justification for the alternative demands used in the model. If the irrigation demands are based on the map in R309-510-7(3) the report must identify the irrigation zone number, a statement and/or map of how the irrigated acreage is spatially distributed, and the total estimated irrigated acreage. The indicated irrigation demands must be used in the model simulations.

(2) The total number of connections served by the water system including existing connections and anticipated new connections served by the water system after completion of the construction of the project.

(3) The total number of equivalent residential connections (ERC) including both existing connections as well as anticipated new connections associated with the project. The number of ERC's must include high as well as low volume water

users. The determination of the equivalent residential connections shall be based on flow requirements using the anticipated demand as outlined in R309-510, or based on alternative sources of information that are deemed acceptable by the [~~Executive Secretary~~]Director.

(4) Provide methodology used for calculating demand and allocating it to the model; a summary of pipe length by diameter; a hydraulic schematic of the distribution piping showing pressure zones, general pipe connectivity between facilities and pressure zones, storage, elevation and sources; and a list or ranges of values of friction coefficient used in the hydraulic model according to pipe material and condition in the system. All coefficients of friction used in the hydraulic analysis shall be consistent with standard practices.

(5) A statement stating either "yes fire hydrants exist or will exist within the system" or "there are no fire hydrants connected to the system and there is no plan to add fire hydrants with this project." Either statement will require the identification of the local fire authority's name, address, and contact information, as well as the fire flow quantity and duration if required.

(6) The locations of the lowest pressures within the distribution system, and areas identified by the hydraulic model as not meeting each scenario of the minimum pressure requirements in R309-105-9.

(7) Calibration method and quantitative summary of the calibration results (i.e., comparison tables, graphs).

#### **R309-511-8. System Capacity and Expansion Report.**

The public water system or its agent may be required to prepare a System Capacity and Expansion Report along with a Hydraulic Model Design Elements Report, as specified above, in support of the certification. It is intended that the System Capacity and Expansion Report be prepared, maintained, and used by the public water system's management to make informed decisions about its capability to provide water service to future customers and need only be submitted to the Division if requested by the [~~Executive Secretary~~]Director. The System Capacity and Expansion Report shall consist of the elements described in R309-110-4 under the definition of "Master Plan" and shall be updated if significant growth or changes to the water system have occurred.

**KEY: drinking water, hydraulic modeling**

**Date of Enactment or Last Substantive Amendment: [~~March 11, 2010~~]2013**

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## **Environmental Quality, Drinking Water R309-515**

### **Facility Design and Operation: Source Development**

#### **NOTICE OF PROPOSED RULE (Amendment)**

**DAR FILE NO.: 37726**

**FILED: 06/13/2013**

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature. The provision for appeal to the Drinking Water Board has been added. The word "should" in several requirements has been replaced with "shall" for clarification.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

#### **ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from the proposed rule amendment to the state budget.

♦ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from the proposed rule amendment to local government.

♦ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from the proposed rule amendment to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system. Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from the proposed rule amendment to persons to other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering

consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Ken Bousfield, Director

### **R309. Environmental Quality, Drinking Water.**

#### **R309-515. Facility Design and Operation: Source Development.**

##### **R309-515-1. Purpose.**

This rule specifies requirements for public drinking water sources. It is intended to be applied in conjunction with R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water that consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

##### **R309-515-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code Annotated and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

##### **R309-515-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

#### **R309-515-4. General.**

##### (1) Issues to be Considered.

The selection, development and operation of a public drinking water source must be done in a manner which will protect public health and assure that all required water quality standards, as described in R309-200, are met.

##### (2) Communication with the Division.

Because of the issues described above in (1), engineers are advised to work closely with the Division to help assure that sources are properly sited, developed and operated.

##### (3) Number of Sources and Quantity Requirements.

Community water systems established after January 1, 1998 serving more than 100 connections shall have a minimum of two sources, except where served by a water treatment plant. Community Water Systems established prior to that date, currently serving more than 100 connections, shall obtain a separate source no later than January 1, 2000. For all systems, the total developed source capacity(ies) shall equal or exceed the peak day demand of the system. Refer to R309-510-7 of these rules for procedure to estimate the peak day demand.

##### (4) Quality Requirements.

In selecting a source of water for development, the designing engineer shall demonstrate to the satisfaction of the [~~Executive Secretary~~]Director that the source(s) selected for use in public water systems are of satisfactory quality, or can be treated in a manner so that the quality requirements of R309-200 can be met.

##### (5) Initial Analyses.

All new drinking water sources, unless otherwise noted below, shall be analyzed for the following:

(a) All the primary and secondary inorganic contaminants listed in R309-200, Table 200-1 and Table 200-5 (excluding Asbestos unless it would be required by R309-205-5(2)),

(b) Ammonia as N; Boron; Calcium; Chromium, Hex as Cr; Copper; Lead; Magnesium; Potassium; Turbidity, as NTU; Specific Conductivity at 25 degrees Celsius, u mhos/cm; Bicarbonate; Carbon Dioxide; Carbonate; Hydroxide; Phosphorous, Ortho as P; Silica, dissolved as SiO<sub>2</sub>; Surfactant as MBAS; Total Hardness as CaCO<sub>3</sub>; and Alkalinity as CaCO<sub>3</sub>,

(c) Pesticides, PCB's and SOC's as listed in R309-200-5(3)(a), Table 200-2 unless the system is a transient non-community pws or, if a community pws or non-transient non-community pws, they have received waivers in accordance with R309-205-6(1)(f). The following six constituents have been excused from monitoring in the State by the EPA, dibromochloropropane, ethylene dibromide, Diquat, Endothall, glyphosate and Dioxin,

(d) VOC's as listed in R309-200-5(3)(b), Table 200-3 unless the system is a transient non-community pws, and

(e) Radiologic chemicals as listed in R309-200-5(4) unless the system is a non-transient non-community pws or a transient non-community pws.

All analyses shall be performed by a certified laboratory as required by R309-205-4 (Specially prepared sample bottles are required),

##### (6) Source Classification.

Subsection R309-505-7(1)(a)(i) provides information on the classification of water sources. The [~~Executive Secretary~~]Director shall classify all existing or new sources as either:

(a) Surface water or ground water under direct influence of surface water which will require conventional surface water treatment or an approved equivalent, or as

(b) Ground water not under the direct influence of surface water.

(7) Latitude and Longitude.

The latitude and longitude, to at least the nearest second, or the location by section, township, range, and course and distance from an established outside section corner or quarter corner of each point of diversion shall be submitted to the [~~Executive Secretary~~]Director prior to source approval.

### R309-515-5. Surface Water Sources.

(1) Definition.

A surface water source, as is defined in R309-110, shall include, but not be limited to tributary systems, drainage basins, natural lakes, artificial reservoirs, impoundments and springs or wells which have been classified as being directly influenced by surface water. Surface water sources will not be considered for culinary use unless they can be rendered acceptable by conventional surface water treatment or other equivalent treatment techniques acceptable to the [~~Executive Secretary~~]Director.

(2) Pre-design Submittal.

The following information must be submitted to the [~~Executive Secretary~~]Director and approved in writing before commencement of design of diversion structures and/or water treatment facilities:

(a) A copy of the chemical analyses required by R309-200 and described in R309-515-4(5) above, and

(b) A survey of the watershed tributary to the watercourse along which diversion structures are proposed. The survey shall include, but not be limited to:

(i) determining possible future uses of impoundments or reservoirs,

(ii) the present stream classification by the Division of Water Quality, any obstacles to having stream(s) reclassified 1C, and determining degree of watershed control by owner or other agencies,

(iii) assessing degree of hazard to the supply by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes,

(iv) obtaining samples over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics and variations of the water,

(v) assessing the capability of the proposed treatment process to reduce contaminants to applicable standards, and

(vi) consideration of currents, wind and ice conditions, and the effect of tributary streams at their confluence.

(3) Pre-construction Submittal.

Following approval of a surface water source, the following additional information must be submitted for review and approval prior to commencement of construction:

(a) Evidence that the water system owner has a legal right to divert water from the proposed source for domestic or municipal purposes;

(b) Documentation regarding the minimum firm yield which the watercourse is capable of producing (see R309-515-5(4) (a) below; and

(c) Complete plans and specifications and supporting documentation for the proposed treatment facilities so as to ascertain compliance with R309-525 or R309-530.

(4) Quantity.

The quantity of water from surface sources shall:

(a) Be assumed to be no greater than the low flow of a 25 year recurrence interval or the low flow of record for these sources when 25 years of records are not available;

(b) Meet or exceed the anticipated peak day demand for water as estimated in R309-510-7 and provide a reasonable surplus for anticipated growth; and

(c) Be adequate to compensate for all losses such as silting, evaporation, seepage, and sludge disposal which would be anticipated in the normal operation of the treatment facility.

(5) Diversion Structures.

Design of intake structures shall provide for:

(a) Withdrawal of water from more than one level if quality varies with depth;

(b) Intake of lowest withdrawal elevation located at sufficient depth to be kept submerged at the low water elevation of the reservoir;

(c) Separate facilities for release of less desirable water held in storage;

(d) Occasional cleaning of the inlet line;

(e) A diversion device capable of keeping large quantities of fish or debris from entering an intake structure; and

(f) Suitable protection of pumps where used to transfer diverted water (refer to R309-540-5).

(6) Impoundments.

The design of an impoundment reservoir shall provide for, where applicable:

(a) Removal of brush and trees to the high water level;

(b) Protection from floods during construction;

(c) Abandonment of all wells which may be inundated (refer to applicable requirements of the Division of Water Rights); and

(d) Adequate precautions to limit nutrient loads.

### R309-515-6. Ground Water - Wells.

(1) Required Treatment.

If properly developed, water from wells may be suitable for culinary use without treatment. A determination as to whether treatment may be required can only be made after the source has been developed and evaluated.

(2) Standby Power.

Water suppliers, particularly community water suppliers, should assess the capability of their system in the event of a power outage. If gravity fed spring sources are not available, one or more of the system's well sources [~~should~~]shall be equipped for operation during power outages. In this event:

(a) To ensure continuous service when the primary power has been interrupted, a power supply [~~should~~]shall be provided through connection to at least two independent public power sources, or portable or in-place auxiliary power available as an alternative; and

(b) When automatic pre-lubrication of pump bearings is necessary, and an auxiliary power supply is provided, the pre-lubrication line [~~should~~]shall be provided with a valved by-pass

around the automatic control, or the automatic control shall be wired to the emergency power source.

(3) The Utah Division of Water Rights.

The Utah Division of Water Rights (State Engineer's Office) regulates the drilling of water wells. Before the drilling of a well commences, the well driller must receive a start card from the State Engineer's Office. For public drinking water supply wells the rules of R655-4 still apply and must be followed in addition to these rules.

(4) Source Protection.

Public drinking water systems are responsible for protecting their sources from contamination. The selection of a well location shall only be made after consideration of the requirements of R309-600. Sources shall be located in an area which will minimize threats from existing or potential sources of pollution.

Generally, sewer lines ~~shall~~ may not be located within zone one and zone two of a public drinking water system's source protection zones. However, if ~~certain~~ the following precautions are taken, sewer lines may be permitted within a public drinking water system's source protection zone one and zone two. Sewer lines shall meet the conditions identified in R309-600-13(3), and shall be specially constructed throughout zone one in aquifers classified as protected, and zones one and two, if the aquifer is classified as unprotected, as follows:

(a) sewer lines shall be constructed to remain watertight.

The lines shall be deflection tested in accordance with the Division of Water Quality Rule R317-3. The lines shall be video inspected for any defect following completion of construction and before being placed in service. The sewer pipe material shall be:

(i) high density polyethylene (HDPE) pipe with a PE3408 or PE4710 rating from the Plastic Pipe Institute and have a Dimension Ratio (DR) of 17 or less, and all joints shall be fusion welded, or

(ii) polyvinyl chloride (PVC) pipe meeting AWWA Specification C900 or C905 and have a DR of 18 or less. PVC pipe shall be either restrained gasketed joints or shall be fusion welded. Solvent cement joints shall not be acceptable. The PVC pipe shall be clearly identified when installed, by marking tape or other means as a sanitary sewer line, or

(iii) ductile iron pipe with ceramic epoxy lining, polyethylene encasement, restrained joints, and a minimum pressure class of 200.

(b) procedures for leakage tests shall be specified and comply with Division of Water Quality Rule R317-3 requirements.

(c) lateral to main connection shall be fusion welded, shop fabricated, or saddled with a mechanical clamping watertight device designed for the specific pipe;

(d) inlet and outlet sewer pipes shall be joined to a manhole with a gasketed flexible watertight connection;

(e) the sewer pipe shall be laid with no greater than 2 percent deflection at any joint;

(f) backfill shall be compacted to not less than 95 percent of maximum laboratory density as determined in accordance with ASTM Standard D-690;

(g) sewer manholes shall meet the following requirements:

(i) the manholes shall be constructed of reinforced concrete;

(ii) manhole base and walls, up to a point at least 12 inches above the top of the upper most sewer pipe entering the manhole, shall be fabricated in a single concrete pour without joints; and

(iii) the manholes shall be air pressure tested after installation.

(h) in unprotected aquifers, an impermeable cutoff wall shall be constructed in all sewer trenches on the up-gradient edge of zone two. In protected aquifers, an impermeable cutoff wall shall be constructed in all sewer trenches on the up-gradient edge of zone one.

(5) Outline of Well Approval Process.

(a) Well drilling shall not commence until both of the following items are submitted and receive a favorable review:

(i) a Preliminary Evaluation Report on source protection issues as required by R309-600-13, and

(ii) engineering plans and specifications governing the well drilling, prepared by a licensed well driller holding a current Utah Well Drillers Permit if previously authorized by the ~~Executive Secretary~~ Director or prepared, signed and stamped by a licensed professional engineer or professional geologist licensed to practice in Utah.

(b) Grouting Inspection During Well Construction.

(i) Authorized Individuals

(A) The following individuals are authorized to witness the well sealing procedure for a public drinking water well:

(I) An engineer or a geologist from the Division of Drinking Water,

(II) A district engineer of the Department of Environmental Quality,

(III) An authorized representative of the Division of Water Rights, or

(IV) An individual having written authorization from the ~~Executive Secretary~~ Director and meeting the below listed criteria.

(B) At the time of the well sealing an individual, who is authorized per (i)(A)(IV), shall present to the well driller a copy of the letter authorizing him or her to witness a well sealing on behalf of the Division of Drinking Water. A copy of this letter shall be appended to the witness certification letter.

(C) At least three days before the anticipated well grouting the well driller shall arrange for an authorized witness listed in (i)(A) above to witness the procedure. (See R309-515-6(6)(i)).

(ii) Obtaining Authorization

(A) To be authorized per (i)(A)(IV) above to witness a well sealing procedure, an individual must have no relationship to the driller or the well's owner and have at least five years professional experience designing wells, supervising well drilling or other equivalent experience associated with well drilling or well sealing that are acceptable to the ~~Executive Secretary~~ Director.

(B) Individuals, desiring the ~~Executive Secretary's~~ Director's authorization to witness a well grouting procedure, shall provide the following information to the ~~Executive Secretary~~ Director for review over his or her signature attesting to the correctness of the information:

(I) A detailed description of the applicant's experience with well drilling projects, including number of years of experience and type of work. Three references confirming this professional experience are required.

(II) Evidence of licensure as a professional engineer or professional geologist in Utah.

(III) No relationship may exist between a person authorized to witness well sealings and a well driller that would serve as the basis for suspicion of favoritism, leniency or punitive action in the performance of this task. Examples of such relationships would be: family; former long term employment; business partnerships, either formal or informal; etc. The ~~[Executive Secretary's]~~Director's decision, with right of appeal ~~[to the Drinking Water Board]~~as provided in R305-7, shall be accepted relative to what constitutes a conflict of interest or a relationship sufficient to disqualify an applicant from all or specific witness opportunities.

(IV) An acknowledgement that he/she would not be acting as an agent or employee of the State of Utah and any losses incurred while acting as a witness would not be covered by governmental immunity or Utah's insurance.

(VI) Willingness to follow established protocols and attend such training events as may be required by the ~~[Executive Secretary]~~Director.

(VII) Complete with a minimum 75% passing grade, an examination on water well drilling rules, as offered by the Division of Water Rights.

(C) The ~~[Executive Secretary]~~Director may rescind the authorization if an individual fails to comply with the criteria or conditions of authorization listed above.

(iii) Well Seal Certification

The individual witnessing the well sealing procedure shall provide a signed letter to the ~~[Executive Secretary]~~Director within 30 days of the well sealing including the following:

(A) Certification that the well sealing procedure met all the requirements of Rule R309-515-6(6)(i);

(B) The water right under which the well was drilled and the well driller's license number;

(C) The public water system name (if applicable);

(D) The latitude and longitude of the well and method used for its determination;

(E) The well head's approximate elevation;

(F) Casing diameter(s), length(s), and material(s);

(G) The size of the annulus between the borehole and casing;

(H) A description of the sealing process including the sealing material used, its volume, density, method of placement, and depth from surface; and

(I) The names and company affiliations of other individuals observing the sealing procedure including, but not limited to the well driller, the well owner, and/or a consultant.

(c) After completion of the well drilling the following information shall be submitted and receive a favorable review before water from the well can be introduced into a public water system:

(i) a copy of the "Report of Well Driller" as required by the State Engineer's Office which is complete in all aspects and has been stamped as received by the same;

(ii) a copy of the letter from the authorized individual described in R309-515-6(5)(b) above, indicating inspection and confirmation that the well was grouted in accordance with the well drilling specifications and the requirements of this rule;

(iii) a copy of the pump test including the yield vs. drawdown test as described in R309-515-6(10)(b) along with comments / interpretation by a licensed professional engineer or licensed professional geologist of the graphic drawdown information required by R309-515-6(b)(vi)(E);

(iv) a copy of the chemical analyses required by R309-515-4(5);

(v) documentation indicating that the water system owner has a right to divert water for domestic or municipal purposes from the well source;

(vi) a copy of complete plans and specifications prepared, signed and stamped by a licensed professional engineer covering the well housing, equipment and diversion piping necessary to introduce water from the well into the distribution system; and

(vii) a bacteriological analysis of water obtained from the well after installation of permanent equipment, disinfection and flushing.

(d) An Operation Permit shall be obtained in accordance with R309-500-9 before any water from the well is introduced into a public water system.

(6) Well Materials, Design and Construction.

(a) ANSI/NSF Standards 60 and 61 Certification.

All interior surfaces must consist of products complying with ANSI/NSF Standard 61. This requirement applies to drop pipes, well screens, coatings, adhesives, solders, fluxes, pumps, switches, electrical wire, sensors, and all other equipment or surfaces which may contact the drinking water.

All substances introduced into the well during construction or development shall be certified to comply with ANSI/NSF Standard 60. This requirement applies to drilling fluids (biocides, clay thinners, defoamers, foamers, loss circulation materials, lubricants, oxygen scavengers, viscosifiers, weighting agents) and regenerants. This requirement also applies to well grouting and sealing materials which may come in direct contact with the drinking water.

(b) Permanent Steel Casing Pipe shall:

(i) be new single steel casing pipe meeting AWWA Standard A-100, ASTM or API specifications and having a minimum weight and thickness as given in Table 1 found in R655-4-9.4 of the Utah Administrative Code (Administrative Rules for Water Well Drillers, adopted January 1, 2001, Division of Water Rights);

(ii) have additional thickness and weight if minimum thickness is not considered sufficient to assure reasonable life expectancy of the well;

(iii) be capable of withstanding forces to which it is subjected;

(iv) be equipped with a drive shoe when driven;

(v) have full circumferential welds or threaded coupling joints; and

(vi) project at least 18 inches above the anticipated final ground surface and at least 12 inches above the anticipated pump house floor level. At sites subject to flooding the top of the well casing shall terminate at least three feet above the 100 year flood level or the highest known flood elevation, whichever is higher.

(c) Non-Ferrous Casing Material.

The use of any non-ferrous material for a well casing shall receive prior approval of the ~~[Executive Secretary]~~Director based on the ability of the material to perform its desired function.

Thermoplastic water well casing pipe shall meet ANSI/ASTM Standard F480-76 and shall bear the logo NSF-wc indicating compliance with NSF Standard 14 for use as well casing.

(d) Disposal of Cuttings.

Cuttings and waste from well drilling operations shall not be discharged into a waterway, lake or reservoir. The rules of the Utah Division of Water Quality must be observed with respect to these discharges.

(e) Packers.

Packers, if used, shall be of material that will not impart taste, odor, toxic substances or bacterial contamination to the well water. Lead, or partial lead packers are specifically prohibited.

(f) Screens.

The use of well screens is recommended where appropriate and, if used, they shall:

- (i) be constructed of material resistant to damage by chemical action of groundwater or cleaning operations;
- (ii) have size of openings based on sieve analysis of formations or gravel pack materials;
- (iii) have sufficient diameter to provide adequate specific capacity and low aperture entrance velocities;
- (iv) be installed so that the operating water level remains above the screen under all pumping conditions; and
- (v) be provided with a bottom plate or washdown bottom fitting of the same material as the screen.

(g) Plumbness and Alignment Requirements.

Every well shall be tested for plumbness and vertical alignment in accordance with AWWA Standard A100. Plans and specifications submitted for review shall:

- (i) have the test method and allowable tolerances clearly stated in the specifications, and
- (ii) clearly indicate any options the design engineer may have if the well fails to meet the requirements. Generally wells may be accepted if the misalignment does not interfere with the installation or operation of the pump or uniform placement of grout.

(h) Casing Perforations.

The placement of perforations in the well casing shall:

- (i) be so located to permit as far as practical the uniform collection of water around the circumference of the well casing, and
- (ii) be of dimensions and size to restrain the water bearing soils from entrance into the well.

(i) Grouting Techniques and Requirements.

For all public drinking water wells the annulus between the outermost well casing and the borehole wall shall be grouted to a depth of at least 100 feet below the ground surface unless an "exception" is issued by the ~~[Executive Secretary]~~Director (see R309-500-4(1)). If more than one casing is used, including a conductor casing, the annulus between the outermost casing and the next inner casing shall be sealed with grout (meeting the grouting materials requirements of R309-515-6(i)(ii) herein) or with a water tight steel ring having a thickness equal to that of the permanent well casing and continuously welded to both casings.

If a well is to be considered in a protected aquifer the grout seal shall extend from the ground surface down to at least 100 feet below the surface, and through the protective layer, as described in R309-600-6(1)(x) (see also R309-515-6(6)(i)(iii)(D) below).

The following applies to all drinking water wells:

(i) Consideration During Well Construction.

(A) Sufficient annular opening shall be provided to permit a minimum of two inches of grout between the outermost permanent casing and the drilled hole, taking into consideration any joint couplings.

(B) Additional information is available from the Division for recommended construction methods for grout placement.

(C) The casing(s) must be provided with sufficient guides welded to the casing to permit unobstructed flow and uniform thickness of grout.

(ii) Grouting Materials.

(A) Neat Cement Grout.

Cement, conforming to ASTM Standard C150, and water, with no more than six gallons of water per sack of cement, shall be used for two inch openings. Additives may be used to increase fluidity subject to approval by the ~~[Executive Secretary]~~Director.

(B) Concrete Grout.

Equal parts of cement conforming to ASTM Standard C150, and sand, with not more than six gallons of water per sack of cement may be used for openings larger than two inches.

(C) Clay Seal.

Where an annular opening greater than six inches is available a seal of swelling bentonite meeting the requirements of R655-4-9.4.2 may be used when approved by the ~~[Executive Secretary]~~Director.

(iii) Application.

(A) When the annular opening is less than four inches, grout shall be installed under pressure, by means of a positive displacement grout pump, from the bottom of the annular opening to be filled.

(B) When the annular opening is four or more inches and 100 feet or less in depth, and concrete grout is used, it may be placed by gravity through a grout pipe installed to the bottom of the annular opening in one continuous operation until the annular opening is filled.

(C) All temporary construction casings shall be removed prior to or during the well sealing operation. Any exceptions shall be approved by the State Engineer and evidence of approval submitted to the ~~[Executive Secretary]~~Director (see R655-4-9.4.3.1 for conditions surrounding leaving temporary surface casing in place. A temporary construction casing is a casing not intended to be part of the permanent well.

(D) When a "well in a protected aquifer" classification is desired, the grout seal shall extend from the ground surface down to at least 100 feet below the surface, and through the protective clay layer (see R309-600-6(1)(x)).

(E) After cement grouting is applied, work on the well shall be discontinued until the cement or concrete grout has properly set; usually a period of 72 hours.

(j) Water Entered Into Well During Construction.

Any water entering a well during construction shall not be contaminated and should be obtained from a chlorinated municipal system. Where this is not possible the water must be dosed to give a 100 mg/l free chlorine residual. Refer also to the administrative rules of the Division of Water Rights in this regard.

(k) Gravel Pack Wells.

The following shall apply to gravel packed wells:

(i) the gravel pack material is to be of well rounded particles, 95 percent siliceous material, that are smooth and

uniform, free of foreign material, properly sized, washed and then disinfected immediately prior to or during placement,

(ii) the gravel pack is placed in one uniform continuous operation,

(iii) refill pipes, when used, are Schedule 40 steel pipe incorporated within the pump foundation and terminated with screwed or welded caps at least 12 inches above the pump house floor or concrete apron,

(iv) refill pipes located in the grouted annular opening be surrounded by a minimum of 1.5 inches of grout,

(v) protection provided to prevent leakage of grout into the gravel pack or screen, and

(vi) any casings not withdrawn entirely meet requirements of R309-515-6(6)(b) or R309-515-6(6)(c).

(7) Well Development.

(a) Every well shall be developed to remove the native silts and clays, drilling mud or finer fraction of the gravel pack.

(b) Development should continue until the maximum specific capacity is obtained from the completed well.

(c) Where chemical conditioning is required, the specifications shall include provisions for the method, equipment, chemicals, testing for residual chemicals, and disposal of waste and inhibitors.

(d) Where blasting procedures may be used the specifications shall include the provisions for blasting and cleaning. Special attention shall be given to assure that the grouting and casing are not damaged by the blasting.

(8) Capping Requirements.

(a) A welded metal plate or a threaded cap is the preferred method for capping a completed well until permanent equipment is installed.

(b) At all times during the progress of work the contractor shall provide protection to prevent tampering with the well or entrance of foreign materials.

(9) Well Abandonment.

(a) Test wells and groundwater sources which are to be permanently abandoned shall be sealed by such methods as necessary to restore the controlling geological conditions which existed prior to construction or as directed by the Utah Division of Water Rights.

(b) Wells to be abandoned shall be sealed to prevent undesirable exchange of water from one aquifer to another. Preference shall be given to using a neat cement grout. Where fill materials are used, which are other than cement grout or concrete, they shall be disinfected and free of foreign materials. When an abandoned well is filled with cement- grout or concrete, these materials shall be applied to the well- hole through a pipe, tremie, or bailer.

(10) Well Assessment.

(a) Step Drawdown Test.

Preliminary to the constant-rate test required below, it is recommended that a step-drawdown test (uniform increases in pumping rates over uniform time intervals with single drawdown measurements taken at the end of the intervals) be conducted to determine the maximum pumping rate for the desired intake setting.

(b) Constant-Rate Test.

A "constant-rate" yield and drawdown test shall:

(i) be performed on every production well after construction or subsequent treatment and prior to placement of the permanent pump,

(ii) have the test methods clearly indicated in the specifications,

(iii) have a test pump with sufficient capacity that when pumped against the maximum anticipated drawdown, it will be capable of pumping in excess of the desired design discharge rate,

(iv) provide for continuous pumping for at least 24 hours or until stabilized drawdown has continued for at least six hours when test pumped at a "constant-rate" equal to the desired design discharge rate,

(v) provide the following data:

(A) capacity vs. head characteristics for the test pump (manufacturer's pump curve),

(B) static water level (in feet to the nearest tenth, as measured from an identified datum; usually the top of casing),

(C) depth of test pump intake,

(D) time and date of starting and ending test(s),

(vi) For the "constant-rate" test provide the following at time intervals sufficient for at least ten essentially uniform intervals for each log cycle of the graphic evaluation required below:

(A) record the time since starting test (in minutes),

(B) record the actual pumping rate,

(C) record the pumping water level (in feet to the nearest tenth, as measured from the same datum used for the static water level),

(D) record the drawdown (pumping water level minus static water level in feet to the nearest tenth),

(E) provide graphic evaluation on semi-logarithmic graph paper by plotting the drawdown measurements on the arithmetic scale at locations corresponding to time since starting test on the logarithmic scale, and

(vii) Immediately after termination of the constant-rate test, and for a period of time until there are no changes in depth to water level measurements for at least six hours, record the following at time intervals similar to those used during the constant-rate pump test:

(A) time since stopping pump test (in minutes),

(B) depth to water level (in feet to the nearest tenth, as measured from the same datum used for the pumping water level).

(11) Well Disinfection.

Every new, modified, or reconditioned well including pumping equipment shall be disinfected before being placed into service for drinking water use. These shall be disinfected according to AWWA Standard C654 published by the American Water Works Association as modified to incorporate the following as a minimum standard:

(i) the well shall be disinfected with a chlorine solution of sufficient volume and strength and so applied that a concentration of at least 50 parts per million is obtained in all parts of the well and comes in contact with equipment installed in the well. This solution shall remain in the well for a period of at least eight hours, and

(ii) a satisfactory bacteriologic water sample analysis shall be obtained prior to the use of water from the well in a public water system.

(12) Well Equipping.

(a) Naturally Flowing Wells.



Naturally flowing wells shall:

- (i) have the discharge controlled by valves,
- (ii) be provided with permanent casing and sealed by grout,
- (iii) if erosion of the confining bed adjacent to the well appears likely, special protective construction may be required by the ~~[Division]~~Director.

(b) Line Shaft Pumps.

Wells equipped with line shaft pumps shall:

- (i) have the casing firmly connected to the pump structure or have the casing inserted into the recess extending at least 0.5 inches into the pump base,
- (ii) have the pump foundation and base designed to prevent fluids from coming into contact with joints between the pump base and the casing,
- (iii) be designed such that the intake of the well pump is at least ten feet below the maximum anticipated drawdown elevation,
- (iv) avoid the use of oil lubrication for pumps with intake screens set at depths less than 400 feet (see R309-105-10(7) and/or R309-515-8(2) for additional requirements of lubricants).

(c) Submersible Pumps.

Where a submersible pump is used:

- (i) The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables.
- (ii) The electrical cable shall be firmly attached to the riser pipe at 20 foot intervals or less.
- (iv) The intake of the well pump must be at least ten feet below the maximum anticipated drawdown elevation.

(d) Pitless Well Units and Adapters.

If the excavation surrounding the well casing allowing installation of the pitless unit compromises the surface seal the competency of the surface seal shall be restored. Torch cut holes in the well casing shall be to neat lines closely following the outline of the pitless adapter and completely filled with a competent weld with burrs and fins removed prior to the installation of the pitless unit and adapter.

Pitless well units and adapters shall:

- (i) not be used unless the specific application has been approved by the ~~[Executive Secretary]~~Director,
- (ii) be used to make a connection to a water well casing that is made below the ground. A below the ground connection shall not be submerged in water during installation,
- (iii) terminate at least 18 inches above final ground elevation or three feet above the highest known flood elevation whichever is greater,
- (iv) pitless adapters or pitless units to be used shall contain a label or imprint indicating compliance with the Water Systems Council Pitless Adapter Standard (PAS-97),
- (v) have suitable access to the interior of the casing in order to disinfect the well,
- (vi) have a suitable sanitary seal or cover at the upper terminal of the casing that will prevent the entrance of any fluids or contamination, especially at the connection point of the electrical cables,
- (vii) have suitable access so that measurements of static and pumped water levels in the well can be obtained,

(viii) allow at least one check valve within the well casing,

(ix) be furnished with a cover that is lockable or otherwise protected against vandalism or sabotage,

(x) be shop-fabricated from the point of connection with the well casing to the unit cap or cover,

(xi) be of watertight construction throughout,

(xii) be constructed of materials at least equivalent to and having wall thickness compatible to the casing,

(xiii) have field connection to the lateral discharge from the pitless unit of threaded, flanged or mechanical joint connection,

(xiv) be threaded or welded to the well casing. If the connection to the casing is by field weld, the shop assembled unit must be designed specifically for field welding to the casing. The only field welding permitted on the pitless unit will be that needed to connect a pitless unit to the casing, and

(xv) have an inside diameter as great as that of the well casing, up to and including casing diameters of 12 inches, to facilitate work and repair on the well, pump, or well screen.

(e) Well Discharge Piping.

The discharge piping shall:

- (i) be designed so that the friction loss will be low,
- (ii) have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided,
- (iii) be protected against the entrance of contamination,
- (iv) be equipped with (in order of placement from the well head) a smooth nosed sampling tap, a check valve, a pressure gauge, a means of measuring flow and a shutoff valve,

(v) where a well pumps directly into a distribution system, be equipped with an air release vacuum relief valve located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least six inches above the floor and covered with a No. 14 mesh corrosion resistant screen. An exception to this requirement will be allowed provided specific proposed well head valve and piping design includes provisions for pumping to waste all trapped air before water is introduced into the distribution system,

(vi) have all exposed piping valves and appurtenances protected against physical damage and freezing,

(vii) be properly anchored to prevent movement, and

(f) Water Level Measurement.

(i) Provisions shall be made to permit periodic measurement of water levels in the completed well.

(ii) Where permanent water level measuring equipment is installed it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and installed in such a manner as to prevent entrance of foreign materials.

(g) Observation Wells.

Observation wells shall be:

(i) constructed in accordance with the requirements for permanent wells if they are to remain in service after completion of a water supply well, and

(ii) protected at the upper terminal to preclude entrance of foreign materials.

(h) Electrical Protection.

Sufficient electrical controls shall be placed on all pump motors to eliminate electrical problems due to phase shifts, surges, lightning, etc.

## (13) Well House Construction.

The use of a well house is strongly recommended, particularly in installations utilizing above ground motors.

In addition to applicable provisions of R309-540, well pump houses shall conform to the following:

## (a) Casing Projection Above Floor.

The permanent casing for all ground water wells shall project at least 12 inches above the pump house floor or concrete apron surface and at least 18 inches above the final ground surface. However, casings terminated in underground vaults may be permitted if the vault is provided with a drain to daylight sized to handle in excess of the well flow and surface runoff is directed away from the vault access.

## (b) Floor Drain.

Where a well house is constructed the floor surface shall be at least six inches above the final ground elevation and shall be sloped to provide drainage. A "drain-to-daylight" shall be provided unless highly impractical.

## (c) Earth Berm.

Sites subject to flooding shall be provided with an earth berm terminating at an elevation at least two feet above the highest known flood elevation or other suitable protection as determined by the ~~[Executive Secretary]~~Director.

## (d) Well Casing Termination at Flood Sites.

The top of the well casing at sites subject to flooding shall terminate at least 3 feet above the 100 year flood level or the highest known flood elevation, whichever is higher (refer to R309-515-6(6)(b)(vi)).

## (e) Miscellaneous.

The well house shall be ventilated, heated and lighted in such a manner as to assure adequate protection of the equipment (refer to R309-540-5(2) (a) through (h)).

## (f) Fencing.

Where necessary to protect the quality of the well water the ~~[Executive Secretary]~~Director may require that certain wells be fenced in a manner similar to fencing required around spring areas.

## (g) Access.

An access shall be provided either through the well house roof or sidewalls in the event the pump must be pulled for replacement or servicing the well.

**R309-515-7. Ground Water - Springs.**

## (1) General.

Springs vary greatly in their characteristics and they should be observed for some time prior to development to determine any flow and quality variations. Springs determined to be "under the direct influence of surface water" will have to be given "surface water treatment".

## (2) Source Protection.

Public drinking water systems are responsible for protecting their spring sources from contamination. The selection of a spring ~~should~~shall only be made after consideration of the requirements of R309-515-4. Springs must be located in an area which shall minimize threats from existing or potential sources of pollution. A Preliminary Evaluation Report on source protection issues is required by R309-600-13(2). If certain precautions are taken, sewer lines may be permitted within a public drinking water system's source protection zones at the discretion of the ~~[Executive Secretary]~~Director. When sewer lines are permitted in protection

zones both sewer lines and manholes shall be specially constructed as described in R309-515-6(4).

## (3) Surface Water Influence.

Some springs yield water which has been filtered underground for years, other springs yield water which has been filtered underground only a matter of hours. Even with proper development, the untreated water from certain springs may exhibit turbidity and high coliform counts. This indicates that the spring water is not being sufficiently filtered in underground travel. If a spring is determined to be "under the direct influence of surface water", it shall be given "conventional surface water treatment" (refer to R309-505-6).

## (4) Pre-construction Submittal

Before commencement of construction of spring development improvements the following information must be submitted to the ~~[Executive Secretary]~~Director and approved in writing.

(a) Detailed plans and specifications covering the development work.

(b) A copy of an engineer's or geologist's statement indicating:

(i) the historical record (if available) of spring flow variation,

(ii) expected minimum flow and the time of year it will occur,

(iii) expected maximum flow and the time of year it will occur,

(iv) expected average flow,

(v) the behavior of the spring during drought conditions.

After evaluating this information, the Division will assign a "firm yield" for the spring which will be used in assessing the number of and type of connections which can be served by the spring (see "desired design discharge rate" in R309-110).

(c) A copy of documentation indicating the water system owner has a right to divert water for domestic or municipal purposes from the spring source.

(d) A Preliminary Evaluation Report on source protection issues as required by R309-600-13.

(e) A copy of the chemical analyses required by R309-515-4(5).

(f) An assessment of whether the spring is "under the direct influence of surface water" (refer to R309-505-7(1)(a)).

## (5) Information Required after Spring Development.

After development of a culinary spring, the following information shall be submitted:

(a) Proof of satisfactory bacteriologic quality.

(b) Information on the rate of flow developed from the spring.

(c) As-built plans of spring development.

## (6) Operation Permit Required.

Water from the spring can be introduced into a public water system only after it has been approved for use, in writing, by the ~~[Executive Secretary]~~Director (see R309-500-9).

## (7) Spring Development.

The development of springs for drinking water purposes shall comply with the following requirements:

(a) The spring collection device, whether it be collection tile, perforated pipe, imported gravel, infiltration boxes or tunnels must be covered with a minimum of ten feet of relatively

impervious soil cover. Such cover must extend a minimum of 15 feet in all horizontal directions from the spring collection device. Clean, inert, non-organic material shall be placed in the vicinity of the collection device(s).

(b) Where it is impossible to achieve the ten feet of relatively impervious soil cover, an acceptable alternate will be the use of an impermeable liner provided that:

- (i) the liner has a minimum thickness of at least 40 mils,
- (ii) all seams in the liner are folded or welded to prevent leakage,

(iii) the liner is certified as complying with ANSI/NSF Standard 61. This requirement is waived if certain that the drinking water will not contact the liner,

(iv) the liner is installed in such a manner as to assure its integrity. No stones, two inch or larger or sharp edged, shall be located within two inches of the liner,

(v) a minimum of two feet of relatively impervious soil cover is placed over the impermeable liner,

(vi) the soil and liner cover are extended a minimum of 15 feet in all horizontal directions from the collection devices.

(c) Each spring collection area shall be provided with at least one collection box to permit spring inspection and testing.

(d) All junction boxes and collection boxes, must comply with R309-545 with respect to access openings, venting, and tank overflow. Lids for these spring boxes shall be gasketed and the box adequately vented.

(e) The spring collection area shall be surrounded by a fence located a distance of 50 feet (preferably 100 feet if conditions allow) from all collection devices on land at an elevation equal to or higher than the collection device, and a distance of 15 feet from all collection devices on land at an elevation lower than the collection device. The elevation datum to be used is the surface elevation at the point of collection. The fence shall be at least "stock tight" (see R309-110). In remote areas where no grazing or public access is possible, the fencing requirement may be waived by the ~~Executive Secretary~~ Director. In populated areas a six foot high chain link fence with three strands of barbed wire may be required.

(f) Within the fenced area all vegetation which has a deep root system shall be removed.

(g) A diversion channel, or berm, capable of diverting all anticipated surface water runoff away from the spring collection area shall be constructed immediately inside the fenced area.

(h) A permanent flow measuring device shall be installed. Flow measurement devices such as critical depth meters or weirs shall be properly housed and otherwise protected.

(i) The spring shall be developed as thoroughly as possible so as to minimize the possibility of excess spring water ponding within the collection area. Where the ponding of spring water is unavoidable, the excess shall be collected by shallow piping or french drain and be routed beyond and down grade of the fenced area required above, whether or not a fence is in place.

#### **R309-515-8. Operation and Maintenance.**

(1) Spring Collection Area Maintenance.

(a) Spring collection areas shall be periodically (preferably annually) cleared of deep rooted vegetation to prevent root growth from clogging collection lines. Frequent hand or mechanical clearing of spring collection areas and diversion channel is strongly recommended. It is advantageous to encourage the

growth of grasses and other shallow rooted vegetation for erosion control and to inhibit the growth of more detrimental flora.

(b) No pesticide (e.g., herbicide) may be applied on a spring collection area without the prior written approval of the ~~Executive Secretary~~ Director. Such approval shall be given 1) only when acceptable pesticides are proposed; 2) when the pesticide product manufacturer certifies that no harmful substance will be imparted to the water; and 3) only when spring development construction meets the requirements of these rules.

(2) Pump Lubricants.

The U.S. Food and Drug Administration (FDA) has approved propylene glycol and certain types of mineral oil for occasional contact with or for addition to food products. These oils are commonly referred to as "food-grade mineral oils". All oil lubricated pumps shall utilize food grade mineral oil suitable for human consumption as determined by the ~~Executive Secretary~~ Director.

(3) Algicide Treatment.

No algicide shall be applied to a drinking water source unless specific approval is obtained from the ~~Division~~ Director. Such approval will be given only if the algicide is certified as meeting the requirements of ANSI/NSF Standard 60, Water Treatment Chemicals - Health Effects.

**KEY: drinking water, source development, source maintenance**  
**Date of Enactment or Last Substantive Amendment: ~~January 16,~~ 2013**

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

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

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

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37727

FILED: 06/13/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature. The word "should" in several requirements has been replaced with "shall" for clarification.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system. Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule amendment to the public water systems.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013**

**AUTHORIZED BY: Ken Bousfield, Director**

**R309. Environmental Quality, Drinking Water.****R309-520. Facility Design and Operation: Disinfection.****R309-520-1. Purpose.**

This rule specifies requirements for facilities that disinfect public drinking water. It is to be applied in conjunction with Rule Series 500, Drinking Water Facility Construction, Design, and Operation, namely, R309-500 through R309-550. Collectively, these Rules govern the design, construction, and operation and maintenance of public drinking water system facilities. These Rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water that consistently meet applicable drinking water quality requirements and do no harm to general public health.

**R309-520-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

**R309-520-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

**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 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.

**R309-520-5. Secondary Disinfectants.**

Secondary disinfection is the means to provide an adequate disinfectant residual in the distribution system to maintain a chemical barrier and to control bacteriological quality of treated water.

The effectiveness of secondary chemical disinfection is measured through maintaining a detectable disinfectant residual throughout the distribution system. Allowable secondary disinfectants are chlorine (gas, hypochlorite solution, and hypochlorite tablets) and chloramine.

**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.

**R309-520-7. Chlorine.**

(1) General Requirements for all Chlorination Installations.

**(a) Chemical Types.**

Disinfection by chlorination shall be accomplished by gaseous chlorine or liquid solutions of calcium hypochlorite or sodium hypochlorite.

**(b) Feed Equipment.**

Solution-feed gas type chlorinators, direct-feed gas type chlorinators or hypochlorite liquid feeders of a positive displacement type shall be provided. Solution-feed gas type chlorinators are preferred. However, for small supplies requiring less than four pounds per day, liquid hypochlorite feed systems are advised.

**(c) Chlorine Feed Capacity.**

The design of each chlorinator shall permit:

(i) the chlorinator capacity to be such that a free chlorine residual of at least 2 mg/l can be maintained in the system after 30 minutes of contact time during peak demand. The equipment shall be of such design that it will operate accurately over a feeding range of 0.2 mg/l to 2 mg/l.

(ii) assurance that a detectable residual, either combined or free, can be maintained at all times, at all points within the intended area in the distribution system.

**(d) Automatic Proportioning.**

Automatic proportioning chlorinators shall be required where the rate of flow of the water to be treated or chlorine demand of the water to be treated is not reasonably constant.

**(e) Injector/diffuser.**

(i) Location. The chlorine solution injector/diffuser shall be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. The center of a pipeline is the preferred application point.

(ii) Equipment. Each injector selected shall be appropriate to the intended point of application with particular attention given to the quantity of chlorine to be added, the maximum injector water flow, the back pressure of the to-be-treated water flow, the injector operating pressure, and the size of the chlorine solution line. Gauges for measuring water pressure at the inlet and outlet of each injector shall be provided.

(iii) Protection. A suitable screen to prevent small debris from clogging a chlorine injector shall be provided on each water feed line. Provision for flushing of the screen is required.

**(f) Contact Time and Point of Application.**

(i) Due consideration shall be given to the contact time of the chlorine in water with relation to pH, ammonia, taste producing substances, temperature, biological quality, and other pertinent factors.

(ii) Where possible, the design shall minimize the formation of chloro-organic compounds. At plants treating surface water or ground water under the direct influence of surface water, provisions shall be made for applying chlorine to raw water, applied water, filtered water, and water entering the distribution system.

(iii) When treating ground water, provisions shall be made for applying chlorine to at least a reservoir inlet or transmission pipeline which will provide sufficient contact time.

(iv) Care must be taken to assure that the point of application will, in conjunction with the pipe and tank configuration

of the water system, allow required CT values to be achieved prior to the first consumer connection.

(g) Minimization of Chlorinated Overflow.

The chlorinator and associated water delivery facilities shall be designed so as to minimize the release of chlorinated water into the environment, for example, discharge chlorinated water from tank overflows. Such release must comply with rules of Division of Water Quality that pertains to discharge or pollution.

(h) Feed Water Piping.

The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply by make-up water of lesser quality. At all facilities treating surface water, pre-chlorination and post-chlorination systems shall be independent where pre-chlorination chlorine solution make-up water is not finished water. All chlorine solution make-up water shall be at least of equal quality to the water receiving the chlorine solution.

(i) Flow Measurement.

The chlorination system design shall have a means to measure the flow rate of treated water, which is critical to operation of flow-proportioned disinfectant dosing.

(j) Residual Testing Equipment.

Chlorine residual test equipment, in accordance with the analytical methods in "Standard Methods for the Examination of Water and Wastewater," shall be provided and shall be capable of measuring residuals to the nearest 0.1 mg/l in the range below 0.5 mg/l, to the nearest 0.3 mg/l between 0.5 mg/l and 1.0 mg/l and to the nearest 0.5 mg/l above 1.0 mg/l.

(k) Standby and Backup Equipment.

A spare parts kit shall be provided and maintained for all chlorinators to repair parts subject to wear and breakage. If there could be a large difference in feed rates between routine and emergency dosages, multiple gas metering tubes shall be provided, at least one for each dose range, to assure accurate control of the chlorine feed under both routine and emergency conditions. Where chlorination is required for disinfection of a water supply, standby equipment of sufficient capacity shall be available to replace the largest unit in the event of its failure. Standby power shall be available, during power outages, for operation of chlorinators where disinfection of the water supply is required.

(l) Heating, Lighting, Ventilation.

Chlorinator houses shall be heated, lighted and ventilated as necessary to assure proper operation of the equipment and to facilitate its serviceability.

(m) Bypass-to-Waste Capability of Chlorine Disinfection Systems.

A chlorinator bypass, with appropriate turn-out of un-chlorinated water, shall be provided to allow the flow to waste for periods when the chlorination system is not operational. This is necessary to prevent un-chlorinated water from entering the distribution system. The flow to waste shall be designed such that it does not result in unintended consequences such as flooding or property damage.

(n) Isolation Capability.

Chlorinator isolation plumbing shall be provided such that each chlorinator can be removed from the process train (e.g., during maintenance, power outage, other shutdown, etc.) without allowing otherwise unchlorinated water to bypass the unit and be delivered to the public for consumption.

(2) Additional Requirement for Gas Chlorinators.

(a) Automatic Switch over.

Automatic Switch over of chlorine cylinders shall be provided, where necessary, to assure continuous disinfection.

(b) Injector and Eductor.

Each injector or eductor shall be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector or eductor water flow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. Gauges for measuring water pressure at the inlet and outlet of each injector shall be provided.

(c) Gas Scrubbers.

Gas chlorine facilities shall conform with the Uniform Fire Code, Article 80 and the Uniform Building Code, Chapter 9 as they are applied by local jurisdictions in the state. Furthermore, local toxic gas ordinances shall be complied with if they exist.

(d) Heat.

The design of the chlorination room shall assure that the temperature in the room will never fall below 32 degrees F or that temperature required for proper operation of the chlorinator, whichever is greater.

(e) Ventilation.

Chlorination equipment rooms which contain chlorine cylinders, tanks, equipment and gaseous chlorine lines under pressure shall have at least one exhaust fan and shall be constructed and equipped such that:

(i) chlorine room exhaust fan(s), when operating, shall provide at least one complete room air change per minute;

(ii) chlorine room ventilating fan(s) shall take suction inside the chlorine room near the floor, as far as practical from the door and air inlet, and exhaust air out of the room with the point of discharge so located as not to contaminate air inlets of any other rooms or any structures;

(iii) chlorine room air entryways shall be through wall louvers near the ceiling;

(iv) chlorine room air entryway louvers and air exit-way louvers (e.g., on outside faceplate of any floor level exhaust fan) shall have air-tight closure;

(v) separate switches for the chlorine room fans and lights shall be outside of the chlorine room near the entrance to the room, and shall be protected from vandalism; and

(vi) vents from feeders and storage discharge above grade to the outside atmosphere.

(f) Feeder Vent Line.

The vent hose from the feeder shall discharge to the outside atmosphere above grade at a point least susceptible to vandalism and shall have the end covered with a No. 14 mesh non-corrodible screen.

(g) Housing.

Adequate housing shall be provided for the chlorination equipment and for storing the chlorine (see R309-520-10(1)(l) above).

(h) Housing at Water Treatment Plants.

A separate room, referred to as the chlorine room, for chlorine cylinders and feed equipment, shall be provided at all water treatment plants. Chlorine gas feed and storage shall be enclosed in the chlorine room and separated from other operating areas. The chlorine room shall have:

(i) shatter resistant inspection window(s) installed in an interior wall and preferably located so that an operator may read the weighing scales without entering the chlorine room,

(ii) construction such that all openings between the chlorine room and the remainder of the plant are sealed, and

(iii) outward-opening doors equipped with panic bars to facilitate a means of easy and rapid exit to the building exterior.

(iv) floor drains shall be discouraged but, where provided, these floor drains shall discharge to the outside of the building and shall not be connected to other internal or external drain systems.

(i) Cylinder Security.

Full and empty cylinders of liquefied chlorine gas and ammonia gas shall be stored in rooms separate from each other, and shall be:

(i) isolated from operating areas;

(ii) restrained in position to prevent upset from accidental bumping, seismic event or other such circumstance;

(iii) stored in areas not in direct sunlight or not exposed to excessive heat.

(j) Feed Line Routing.

Chlorine feed lines shall not carry pressurized chlorine gas beyond the chlorinator room. Only vacuum lines may be routed to other portions of the building outside the chlorine room. Any openings for these lines must be adequately sealed.

(k) Weighing Scales.

Scales shall be provided for determining chlorine cylinder weight. Scales should be of a corrosion resistant material and should be placed in a location remote from any moisture. Scales shall be accurate enough to indicate loss of weight to the nearest one pound for 150 pound cylinders and to the nearest 10 pounds for one ton cylinders.

(l) Pressure Gauges.

Pressure gauges shall be provided on the inlet and outlet of each chlorine injector. Water pressures at the inlet and outlet of each chlorine injector shall be accurately measured. The preferred location is on the water feed line immediately before the inlet of the chlorine injector and at a point on the water main just ahead of chlorine injection. These locations should give accurate pressure readings while not being subjected to corrosive chlorinated water.

(m) Injector Protection.

A suitable screen to prevent small debris from clogging a chlorine injector shall be provided on the water feed line. Provision for flushing of the screen is required.

(n) Chlorine Vent Line Protection.

A non-corrodible fine mesh (No. 14 or finer) screen shall be placed over the discharge ends of all vent lines. All vent lines shall discharge to the outside atmosphere above grade and at locations least susceptible to vandalism.

(o) Gas Masks.

(i) Respiratory protection equipment, meeting the requirements of the National Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas in one-ton cylinders is handled, and shall be stored at a convenient location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a 30 minute capacity, and be compatible with units used by the fire department responsible for the plant.

(ii) Where smaller chlorine cylinders are used, suitable gas masks must be provided.

(p) Chlorine Leak Detection and Repair.

A bottle of Ammonium Hydroxide, 56% ammonia solution, shall be available for chlorine leak detection; where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. Continuous chlorine leak detection equipment is recommended. Where a leak detector is provided, it shall be equipped with both an audible alarm and a warning light.

(3) Additional Requirement for Hypochlorite Systems.

Disinfection by free chlorine shall be accomplished with stock hypochlorite solutions, hypochlorite solution produced by an on-site generator, or hypochlorite solutions prepared from hypochlorite tablets.

(a) Concentrated Sodium Hypochlorite Solutions.

(i) The concentrated sodium hypochlorite solutions used for drinking water treatment shall be certified as meeting the ANSI/NSF Standard 60.

(ii) Emergency eyewash stations or showers shall be provided at all hypochlorite installations where concentrated (e.g., above 5.25% strength) hypochlorite solutions are handled for dilution by operators or other personnel.

(iii) The storage and injection areas shall be designed to minimize the decay of the strength of the concentrated hypochlorite solution over time, such as minimize excessive heat or direct sunlight.

(b) On-Site Hypochlorite Solutions Generation.

The on-site hypochlorite generation systems used for drinking water treatment shall be certified as meeting the NSF/ANSI Standard 61. Manufacturer recommendations for safety with respect to equipment electrical power and other considerations for the ANSI/NSF Standard 61 certified on-site chlorine generation system shall be followed.

(c) Calcium Hypochlorite.

(i) The calcium hypochlorite tablets, granules, and powder forms, used for drinking water treatment shall be certified as meeting ANSI/NSF Standard 60.

(ii) The calcium hypochlorite dissolution systems for drinking water treatment shall be certified as meeting the ANSI/NSF Standard 61. The ~~Executive Secretary~~ Director may grant an exception to this requirement on a case by case basis.

(iii) The design shall allow the calcium hypochlorite tablets to be stored in accordance with safety guidelines by the vendor or manufacturer, for example, in their original containers in a cool, dry, well-ventilated area. The calcium hypochlorite tablets shall not be stored near combustible materials and acids to avoid fire or the release of toxic gases.

(d) Hypochlorite Feed Equipment.

(i) Hypochlorite feed equipment shall generally conform with R309-525-11, Chemical Addition; with R309-525-6 for storage and safe handling; with R309-525-7 for feeder design, location, and control; with R309-525-8 for feeder appurtenances such as pumps, day tanks, bulk storage tanks, and feed lines; and R309-525-9 for make-up water supply and protection.

(ii) The hypochlorite feed equipment for drinking water treatment shall be certified meeting the ANSI/NSF Standard 61. The ~~Executive Secretary~~ Director may grant an exception to this requirement on a case by case basis.

**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]~~ Director may reduce the requirements of 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 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]~~ Director 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.**

The ~~[Executive Secretary]~~ Director 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 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]~~ Director.

(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]~~ shall 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]~~Director.

(o) The dose monitoring approach used for UV facility must be reviewed and accepted by the ~~[Executive Secretary]~~Director. 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]~~shall 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]~~shall 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]~~shall 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]~~Director. For very small UV systems, the ~~[Executive Secretary]~~Director may consider granting exception to allow reduced monitoring and reporting on a case-by-case basis.

**R309-520-9. Ozone.**

## (1) General Requirements.

(a) Ozone is approved as a primary disinfectant, but is not approved as a secondary disinfectant for the distribution system because of its rapid decomposition in aqueous solution. A different disinfectant approved for secondary disinfection must be used if a minimum disinfection residual is required in the distribution system. Ozone may also be used for taste and odor control, oxidation of inorganic and organic compounds and for enhanced performance of other water treatment processes such as microflocculation and filtration. Some of the requirements of this section may not be applicable if ozone is used only for reasons other than primary disinfection.

(b) Pilot studies or bench scale studies shall be conducted for all surface waters unless there is sufficient data available from other studies performed on the same water source. The studies shall determine the initial ozone demand, the rate of ozone decay, the minimum and maximum ozone dosages for the range of water conditions for disinfection "CT" compliance, and the ozone dosage required for other desired benefits. Pilot studies or bench scale studies shall take into account the seasonal and other variations of the source water. Plans for pilot studies or bench scale studies shall be reviewed and accepted by the ~~Executive Secretary~~ Director prior to commencement of the studies.

## (2) Ozone Generation.

(a) The ozone system should be designed with backup capability such that required inactivation can be achieved with one generator out of service.

(b) The ozone generators shall be housed in an enclosed temperature controlled building for protection. Adequate ventilation shall be provided in the building, and be capable of providing six or more air changes per hour when needed in case of an ozone leak.

(c) The ozone generators shall be of the medium or high frequency type.

(d) The power supply units for the ozone generators shall have a backup electrical power source, normally an emergency generator, or the system shall have an alternate primary disinfection system that may be used in case of an electrical power outage.

(e) The ozone generators shall be water-cooled with a maximum increase in cooling water temperature of 10 degrees F (5.6 degrees C). If necessary, the cooling water should be treated to minimize corrosion, scaling, and microbiological fouling of the water side of the tubes. A closed-loop cooling water system may be used to assure proper water conditions are maintained. The power supply units to the ozone generators may also be water cooled.

(f) The ozone generators shall comply with Section 3705 of Chapter 37, "Ozone Gas Generators," of the 2006 International Fire Code.

## (3) Ozone Generator Feed Gas.

(a) Feed gas may be air, vaporized high purity liquid oxygen, or oxygen enriched air. Oxygen may be generated on-site or delivered in bulk. Oxygen-enriched air is typically generated on-site.

(b) The design of the feed gas system must ensure that the maximum dew point of the feed gas of -76 degrees F (-60 degrees C) is not exceeded at any time.

## (c) Liquid Oxygen Feed Gas Systems.

(i) Liquid oxygen storage tanks shall be sized to provide a minimum of a 7-day supply to the ozone generators at the maximum operating rate.

(ii) There shall be two or more vaporizers to convert liquid oxygen to the gaseous form. Vaporizers must be capable of maintaining oxygen flow at the minimum design air temperature with one unit on standby.

(iii) Liquid oxygen storage tanks and system shall comply with Chapters 40, "Oxidizers," of the 2006 International Fire Code.

## (d) Air or Oxygen Enriched Air Feed Gas Systems.

(i) There shall be two or more air compressors to supply air. The capacity of the compressors shall be such that the demand during maximum ozone production and for other compressed air uses at the treatment plant can be met when the largest compressor is out of service.

(ii) Entrainment separators, refrigeration dryers, desiccant dryers, and filters shall be used as necessary to provide a sufficiently dried, dust-free, and oil-free feed gas to the ozone generators. Multiple units of this equipment shall be used so that the ozone generation is not interrupted in the event of a breakdown.

## (4) Ozone Contactors.

(a) An ozone contactor shall consist of two or more chambers to provide for introduction of ozone into the water and contact time. In a water treatment plant, ozone may be introduced in the raw water, or ozone may be introduced later in the process, such as to settled water after solids have been removed. An ozone contactor must be a closed vessel that is kept under less than atmospheric pressure to prevent escape of ozone gas. The materials of construction must be ozone-resistant to prevent premature failure of the contactor.

(b) Ozone gas may be injected into the water under positive pressure through bubble diffusers using porous-tube or dome diffusers. Alternatively, ozone gas may be injected into the water using side stream injection. This is where ozone gas is drawn into the side stream using negative pressure, which is generated in a pipe section with a venturi.

(c) An ozone contactor shall be designed to achieve a minimum transfer efficiency of 85 percent.

(d) Multiple sampling points shall be provided in an ozone contactor to enable sampling of treated water for purposes of determining an accurate measure of the concentration to be used in the "CT" disinfection calculation.

(e) A recommended minimum disinfection contact time is ten minutes.

(f) Ozone contactors shall have provision for cleaning, maintenance, and drainage of the contactor. Each contactor chamber shall be equipped with an access hatchway or other means of entry.

(g) An ozone contactor shall have an emergency off-gas pressure/vacuum relief system to prevent damage to the unit.

(h) A system must be provided for worker safety at the end of the ozone contactor for compliance with OSHA standards. Specifically, ozone levels in the gas space above treated water that has exited the contactor must not exceed the established OSHA 8-hour exposure limit of 0.1 ppm. This system may be an ozone residual quenching system where a chemical is used to destroy remaining ozone in the water, or this system may be a monitoring system that provides sufficient time to lower the residual ozone

level in the water by natural decay to an acceptable level. Any chemical used to quench residual ozone shall comply with ANSI/NSF Standard 60.

(5) Off-Gas Destruction Units.

(a) A system for treating the final off-gas from each ozone contactor must be provided in order to meet safety standards. Systems using thermal destruction or catalytic destruction may be used. At least two units shall be provided which are each capable of handling the entire off-gas flow.

(b) Exhaust blowers shall be provided in order to draw off-gas from the contactor into the destruction units.

(c) Provisions must be made to drain water from condensation in the off-gas piping and to protect the destruction units and piping from moisture and other impurities that may cause damage.

(d) The maximum allowable ozone concentration in the gas discharge from a destruction unit is 0.1 ppm by volume. Provisions may be made for temporary transient concentration spikes that may exceed this limit.

(6) Piping and Connections.

(a) Because ozone is a strong oxidant, consideration shall be given to piping materials used in ozone service. Generally, only low carbon 304L and 316L stainless steel should be used for ozone gas service.

(b) Connections on piping used for ozone service should be welded where possible. Threaded connections should be avoided for ozone gas piping because of their tendency to leak. Connections with meters, valves, or other equipment should be made with flanged joints with ozone-resistant gaskets.

(c) A positive-closing 90-degree turn isolation valve, or other equivalent means, shall be provided in the piping between an ozone generator and a contactor to prevent moisture from reaching the ozone generator during shutdowns.

(7) Instrumentation and Monitoring.

(a) A flow meter shall be provided to measure the flow rate of the water being treated. A temperature gauge or transmitter shall also be provided to measure the temperature of the water being treated. The pH ~~should~~ shall also be measured to indicate changes in the water being treated.

(b) An ozone gas analyzer, a flow meter, and a temperature measurement shall be provided on the gaseous ozone feed line going to the ozone injection point.

(c) Ozone aqueous residual analyzers shall be provided to measure the ozone residual concentration in the water being treated in order to determine "CT" credit.

(d) An ozone gas analyzer shall be provided on the gas discharge of each ozone destruction unit, or combined vent gas discharge, to determine the exiting ozone concentration.

(e) Ambient ozone monitors shall be installed in the vicinity of the ozone generators, the ozone contactors, the ozone destruction units, and other areas where ozone gas may accumulate.

(f) A continuous dew point monitor shall be provided on the feed gas line to the ozone generators.

(g) Instrumentation such as pressure gauges, temperature gauges, flow meters, and power meters shall be provided as necessary to monitor the feed gas system, ozone generators, power supply units, and cooling water to protect the equipment and monitor performance.

(8) Alarms and Shutdowns.

(a) An ambient ozone monitor shall be provided.

(b) The design shall include alarms and shutdowns.

(9) Safety.

(a) Training shall be provided to the operators of ozone systems by the manufacturers of the ozone equipment, or other professionals with experience in ozone treatment, to promote the safe operation of the systems.

(b) Appropriate signs shall be installed around ozone and liquid oxygen equipment to warn operators, emergency responders, and others of the potential dangers.

(c) A means shall be provided, such as portable purge air blowers and portable monitors, to reduce residual ozone levels in an ozone contactor or other equipment to safe levels prior to entry for repair, maintenance, or emergency.

(10) Operation and Maintenance.

(a) An ambient ozone monitor should activate an alarm when the ozone level exceeds 0.1 ppm. Because the natural ozone levels can exceed 0.1 ppm under certain atmospheric conditions, it is permissible to set the alarm level at a slightly higher level to avoid nuisance alarms. Ozone generator shutdown ~~should~~ shall occur when ambient levels exceed 0.3 ppm in the vicinity of an ozone generator or a contactor. Operators of the water treatment system may set the alarm level and the shutdown level lower at their discretion. It is ~~recommended~~ required that an ozone ambient monitor activates a local audible alarm and/or flashing light warning, in addition to an alarm at the operator control system panel.

(b) There ~~should~~ shall be an alarm/shutdown to prevent the dew point of the feed gas exceeding the maximum of -76 degrees F (-60 degrees C).

(c) Alarms and shutdowns ~~should~~ shall be programmed based on the pressure gauges, temperature gauges, flow meters, and power meters, to protect the feed gas system, ozone generators, power supply units, and cooling water system.

**R309-520-10. Chlorine Dioxide.**

The public water systems must take into consideration that chlorine dioxide and its byproducts may have similar effects as chloramines and the impact on sensitive population. Chlorine dioxide should not be intentionally used as a secondary disinfectant. The water system must monitor the chlorine dioxide residuals and byproducts in the distribution system. If chlorine dioxide residual enters the distribution system and may result in impact on sensitive population, the public water system shall notify the public of the change and/or the schedule for the change, particularly notification to sensitive populations such as hospitals and kidney dialysis facilities serving dialysis patients and fisheries.

(1) Pre-design Proposal.

Proposals for the use of chlorine dioxide shall be discussed with the Division prior to the preparation of final plans and specifications. A water system must submit a detailed written proposal to the ~~Executive Secretary~~ Director for review, including:

(a) The make, model, and specifications for proposed chlorine dioxide generator

(b) References of other U.S. potable water installations of the proposed unit

(c) Information on the operational and maintenance training program

(d) The expected total applied dosage of chlorine dioxide and other disinfectants as well as the points of application for all disinfectants and the type and amount of residuals and by-products expected in the distribution system

(2) Chlorine dioxide generators

(a) Chlorine dioxide generation should be designed to be efficient compared to industry standard, and production of excess chlorine ~~should~~ shall be minimized.

(b) The generator shall not produce a solution with chlorine dioxide concentration more than 6,000 mg/L to minimize the explosion hazard.

(c) The design shall include capability to measure concentrations of chlorine dioxide, chlorite, chlorate, and free chlorine of the solution leaving the generator.

(d) The chlorine dioxide generator shall be equipped with a chlorine dioxide analyzer to measure the strength of the solution leaving the generator.

(e) Generators which use solid chlorite will not be allowed.

(3) Chlorine Dioxide Feed and Storage System

(a) Chlorine Dioxide Feed system.

(i) Use fiberglass reinforced vinyl ester plastic (FRP) or high density linear polyethylene (HDLPE) tanks with no insulation.

(ii) If centrifugal pumps are used, provide Teflon packing material. Pump motors must be totally enclosed, fan-cooled, equipped with permanently sealed bearings, and equipped with double mechanical seals or other means to prevent leakage.

(iii) Provide chlorinated PVC, vinyl ester or Teflon piping material. Do not use carbon steel or stainless steel piping systems.

(iv) Provide glass view ports for the reactor if it is not made of transparent material.

(v) Provide flow monitoring on all chemical feed lines, dilution water lines, and chlorine dioxide solution lines.

(vi) Provide a means to verify calibrated feed flow to each application feed point.

(vii) Control air contact with chlorine dioxide solution to limit potential for explosive concentrations building up within the feed facility.

(viii) All chlorite solutions shall have concentrations less than 30%. Higher strength solutions are susceptible to crystallization and stratification.

(b) Chlorine Dioxide Storage and Operating Area. The following requirements apply to the chlorite storage and chlorine dioxide day tank area.

(i) The chlorine dioxide facility shall be physically located in a separate room from other water treatment plant operating areas.

(ii) The chlorine dioxide area ~~should~~ shall have a ventilation system separate from other operating areas.

(iii) Provision shall be made to ventilate the chlorine dioxide facility area and maintain the ambient air chlorine dioxide concentrations below the Permissible Exposure Limit (PEL).

(A) The ventilating fan(s) take suction near the floor, as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets of any rooms or structures.

(B) Air inlets are provided near the ceiling.

(C) Air inlets and outlets shall be louvered.

(D) Separate switches for the fans are outside and near the entrance of the facility.

(iv) The area housing chlorine dioxide facility shall be constructed of non-combustible materials such as concrete.

(v) There shall be an ambient air chlorine dioxide sensor in the vicinity of the chlorine dioxide operating area. The ambient air chlorine dioxide readouts and alarm or warning light shall be audible and visible in the operating area and on the outside of the door to the operating area. The design ~~should~~ shall include distinguishing audible alarms that are triggered by the ambient air chlorine dioxide sensor readings.

(vi) There shall be observation windows through which the operating area can be observed from outside the room to ensure operator safety.

(vii) Manual switches to the light in the operating area shall be located outside the door to the room.

(viii) There shall be an emergency shower and eyewash outside and close to the door to the operating area.

(ix) An emergency shutoff control to shut flows to the generator shall be located outside the operating area.

(x) The design shall minimize the possibility of chlorite leaks.

(xi) The chlorite tank and chlorine dioxide solution tank shall be vented to the outdoors away from any operating areas.

(xii) Gaseous chlorine feed to the chlorine dioxide generator ~~should~~ shall enter the chlorine dioxide facility area through lines which can only feed to vacuum.

(xiii) The floor of the chlorine dioxide facility area shall slope to a sump.

(xiv) There shall not be any open drains in the chlorine dioxide operating area.

(xv) Provide secondary containments with sumps for chlorine dioxide storage, and chlorine dioxide solutions which can hold the entire volume of these vessels. This containment shall prevent these solutions from entering the rest of the operating area.

(xvi) Provide wash-down water within the operating area.

(xvii) The operating area shall be designed to avoid direct exposure to sunlight, UV light, or excessive heat.

(4) Other Design Criteria.

(a) Provide secondary containment, a sump, wash-down water, and a shower and eyewash at the bulk delivery transfer point.

(b) Finished water ~~should~~ shall be used for chlorine dioxide generation.

(c) The finished water line to the chlorine dioxide generator ~~should~~ shall be protected with a high hazard assembly.

(d) Provide a water supply near the storage and handling area for cleanup.

(e) The parts of the chlorine dioxide system in contact with the strong oxidizing or acid solutions shall be of inert material.

(f) The design shall provide the capability to shut off the chlorine dioxide operation remotely, i.e., from a location that is outside of the chlorine dioxide operating area.

(5) Operation and Maintenance.

(a) Do not store or handle combustible or reactive materials, such as acids, reduced metals, or organic material, in the chlorine dioxide operating area.

(b) Store chemicals in clean, closed, non-translucent containers.

(c) Personal protective equipment and first aid kits shall be stored at a nearby location that is outside the chlorine dioxide facility area.

(d) The temperature of the chlorine dioxide operating area shall be maintained between 60 and 100 degrees F.

(e) After delivery allow chlorite solutions to equalize with the ambient temperature of the operating area to avoid stratification.

(f) The Operating and Maintenance manual shall include operator safety and emergency response procedures. Personnel shall have ongoing training for operator safety and emergency response procedures.

(g) All wastes should be disposed of in accordance to any existing solid and hazardous waste regulations.

(h) The operating area should be inspected daily for chlorite spills and solid chlorite buildup. The daily inspections ~~should~~ shall be logged.

(i) Chlorite leaks and solid chlorite buildup should be cleaned up and disposed of immediately.

(j) Solid chlorite should be washed down before removal.

(k) The ventilation system in the chlorine dioxide facility area ~~should~~ shall be operated to maintain the ambient air chlorine dioxide concentrations below the Permissible Exposure Limit (PEL).

(l) Audible alarms ~~should~~ shall be programmed to alert water treatment plant personnel when the ambient air chlorine dioxide sensor in the vicinity of the chlorine dioxide operating area detects the chlorine dioxide concentration above the Permissible Exposure Limit (PEL) and the Short Term Exposure Limit (STEL).

#### **R309-520-11. Chloramines.**

Proposals for the use of Chloramines as a disinfectant shall be discussed with the Division prior to the preparation of final plans and specifications.

**KEY: drinking water, primary disinfectants, secondary disinfectants, operation and maintenance**

**Date of Enactment or Last Substantive Amendment: ~~May 9, 2011~~ 2013**

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

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## Environmental Quality, Drinking Water **R309-525** Facility Design and Operation: Conventional Surface Water Treatment

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 37728

FILED: 06/13/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B.

21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature. The word "should" in several requirements has been replaced with "shall" for clarification.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

#### **ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system. Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to persons to other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule amendment to the public water systems.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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](mailto: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](mailto:ymacauley@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Ken Bousfield, Director

### **R309. Environmental Quality, Drinking Water.**

#### **R309-525. Facility Design and Operation: Conventional Surface Water Treatment.**

##### **R309-525-1. Purpose.**

This rule specifies requirements for conventional surface water treatment plants used in public water systems. It is intended to be applied in conjunction with rules R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

##### **R309-525-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

##### **R309-525-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

##### **R309-525-4. General.**

(1) Treatment plants used for the purification of surface water supplies or ground water supplies under direct influence of

surface water must conform to the requirements given herein. The plants shall have, as a minimum, facilities for flash mixing of coagulant chemicals, flocculation, sedimentation, filtration and disinfection.

(2) The overall design of a water treatment facility must be carefully examined to assure the compatibility of all devices and processes. The design of treatment processes and devices shall depend on an evaluation of the nature and quality of the particular water to be treated. The combined unit processes shall produce water meeting all established drinking water standards as given in R309-200.

(3) Direct filtration may be acceptable and rules governing this method are given in R309-530-5.

(4) Refer to R309-530-9 for policy with regards to novel water treatment equipment or techniques which may depart from the requirements outlined herein.

##### **R309-525-5. Plant Capacity and Number of Treatment Trains.**

(1) A determination of the required plant capacity and the required number of treatment trains shall be made by the Director after consultation with the Division. Ordinarily, a minimum of two units each for flocculation, sedimentation and filtration must be provided. The design shall provide for parallel or series operation of the clarification stages. Flash mix shall be designed and operated to provide a minimum velocity gradient of 750 fps/ft. Mixing time shall be less than thirty seconds. The treatment plant shall be designed to meet the anticipated "peak day demand" of the system being served when the treatment plant is the system's sole source. When other sources are available to the system, this requirement may be relaxed.

(2) The degree of "back-up" required in a water treatment plant will vary with the number of connections to be served, the availability of other acceptable sources of water, and the ability to control water consumption. Thus, when other sources are available to the system, the requirements of R309-525-7 (Plant Reliability) may also be relaxed. The Division shall be consulted in this regard prior to plant design.

##### **R309-525-6. Plant Siting.**

Plants must be sited with due regard for earthquake, flood, and fire hazard. Assistance in this matter is available from the Utah Geologic Survey. The Division shall be consulted regarding site selection prior to the preparation of engineering plans and specifications.

##### **R309-525-7. Plant Reliability.**

Plants designed for processing surface water or ground water under direct influence of surface water shall be designed to meet present and future water demands and assure reliable operation at all times. To help assure proper, uninterrupted operation:

(1) A manual override shall be provided for any automatic controls. Highly sophisticated automation may put proper maintenance beyond the capability of the plant operator, leading to equipment breakdowns or expensive servicing. Adequate funding must be assured for maintenance of automatic equipment.

(2) Main switch electrical controls shall be located above grade, in areas not subject to flooding.

(3) Plants shall be operated by qualified personnel approved by the ~~[Executive Secretary]~~ Director. As a minimum, the treatment plant manager is required to be certified in accordance with R309-300 at the grade of the waterworks system with an appropriate unrestricted Utah Operator's Certificate.

(4) The plant shall be constructed to permit units to be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time.

(5) The plant shall have standby power available to permit operation of essential functions during power outages,

(6) The plant shall be provided with backup equipment or necessary spare parts for all critical items.

(7) Individual components critical to the operation of a treatment plant shall be provided with anchorage to secure the components from loss due to an earthquake event.

**R309-525-8. Color Coding and Pipe Marking.**

The piping in water treatment plants shall be color coded for identification. The following table contains color schemes recommended by the Division. Identification of the direction of flow and the contained liquid shall also be made on the pipe.

TABLE 525-1

Recommended Color Scheme for Piping	
Water Lines	
Raw	Olive Green
Settled or Clarified	Aquamarine
Finished	Dark Blue
Chemical Lines	
Alum	Orange
Ammonia	White
Carbon Slurry	Black
Chlorine (Gas and Solution)	Yellow
Fluoride	Light Blue with Red Band
Lime Slurry	Light Green
Potassium Permanganate	Violet
Sulfur Dioxide	Light Green with Yellow Band
Waste Lines	
Backwash Waste	Light Brown
Sludge	Dark Brown
Sewer (Sanitary or Other)	Dark Gray
Other	
Compressed Air	Dark Green
Gas	Red
Other Lines	Light Gray

**R309-525-9. Diversion Structures and Pretreatment.**

Refer to R309-515-5(5) for diversion structure design.

**R309-525-10. Presedimentation.**

Waters containing, heavy grit, sand, gravel, leaves, debris, or a large volume of sediments may require pretreatment, usually sedimentation, with or without the addition of coagulation chemicals.

(1) Presedimentation basins shall be equipped for efficient sludge removal.

(2) Incoming water shall be dispersed across the full width of the line of travel as efficiently as practical. Short-circuiting shall be minimized.

(3) Provisions for bypassing presedimentation basins shall be included.

**R309-525-11. Chemical Addition.**

(1) ~~[Goals.]~~ Standards.

Chemicals used in the treatment of surface water shall achieve the following:

(a) Primary coagulant chemicals shall be utilized to permit the formation of a floc,

(b) Disinfectants shall be added to raw and/or treated water.

(2) Application Criteria.

In achieving these goals the chemical(s) shall be applied to the water:

(a) To assure maximum control and flexibility of treatment,

(b) To assure maximum safety to consumer and operators,

(c) To prevent backflow or back-siphonage of chemical solutions to finished water systems.

(d) With appropriate spacing of chemical feed to eliminate any interference between chemicals.

(3) Typical Chemical Doses.

Chemical doses shall be estimated for each treatment plant to be designed. "Jar tests" shall be conducted on representative raw water samples to determine anticipated doses.

(4) Information Required for Review.

With respect to chemical applications, a submittal for Division review and Director approval shall include:

(a) Descriptions of feed equipment, including maximum and minimum feed rates,

(b) Location of feeders, piping layout and points of application,

(c) Chemical storage and handling facilities,

(d) Specifications for chemicals to be used,

(e) Operating and control procedures including proposed application rates,

(f) Descriptions of testing equipment and procedures, and

(g) Results of chemical, physical, biological and other tests performed as necessary to define the optimum chemical treatment.

(5) Quality of Chemicals.

All chemicals added to water being treated for use in a public water system for human consumption shall comply with ANSI/NSF Standard 60. Evidence for this requirement shall be met if the chemical shipping container labels or material safety data sheets include:

(a) Chemical name, purity and concentrations, Supplier name and address, and

(b) Labeling indicating compliance with ANSI/NSF Standard 60.

(6) Storage, Safe Handling and Ventilation of Chemicals.

All requirements of the Utah Occupational Safety and Health Act (UOSHA) for storage, safe handling and ventilation of chemicals shall apply to public drinking water facilities. The designer shall incorporate all applicable UOSHA standards into the facility design, however, review of facility plans by the ~~[Division of Drinking Water]~~ Director under this Rule shall be limited to the following requirements:

(a) Storage of Chemicals.

(i) Space shall be provided for:

(A) An adequate supply of chemicals,

(B) Convenient and efficient handling of chemicals,

(C) Dry storage conditions.

(ii) Storage tanks and pipelines for liquid chemicals shall be specific to the chemicals and not for alternates.

(iii) Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into a covered storage unit.

(iv) Liquid chemical storage tanks must:

(A) Have a liquid level indicator, and

(B) Have an overflow and a receiving basin or drain capable of receiving accidental spills or overflows, and meeting all requirements of R309-525-23, and

(C) Be equipped with an inverted "J" air vent.

(v) Acids shall be kept in closed acid-resistant shipping containers or storage units.

(b) Safe Handling.

(i) Material Safety Data Sheets for all chemicals utilized shall be kept and maintained in prominent display and be easily accessed by operators.

(ii) Provisions shall be made for disposing of empty bags, drums or barrels by an acceptable procedure which will minimize operator exposure to dusts.

(iii) Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions.

(c) Dust Control and Ventilation.

Adequate provision shall be made for dust control and ventilation.

(7) Feeder Design, Location and Control.

(a) General Feeder Design.

General equipment design, location and control shall be such that:

(i) feeders shall supply, at all times, the necessary amounts of chemicals at an accurately controlled rate, throughout the anticipated range of feed,

(ii) chemical-contact materials and surfaces are resistant to the aggressiveness of the chemicals,

(iii) corrosive chemicals are introduced in a manner to minimize potential for corrosion,

(iv) chemicals that are incompatible are not fed, stored or handled together.

(v) all chemicals are conducted from the feeder to the point of application in separate conduits,

(vi) spare parts are available for all feeders to replace parts which are subject to wear and damage,

(vii) chemical feeders are as near as practical to the feed point,

(viii) chemical feeders and pumps operate at no lower than 20 percent of the feed range,

(ix) chemicals are fed by gravity where practical,

(x) be readily accessible for servicing, repair, and observation.

(b) Chemical Feed Equipment.

Where chemical feed is necessary for the protection of the consumer, such as disinfection, coagulation or other essential processes:

(i) a minimum of two feeders, one active and one standby, shall be provided for each chemical,

(ii) the standby unit or a combination of units of sufficient capacity shall be available to replace the largest unit during shut-downs,

(iii) where a booster pump is required, duplicate equipment shall be provided and, when necessary, standby power,

(iv) a separate feeder shall be used for each non-compatible chemical applied where a feed pump is required, and

(v) spare parts shall be available for all feeders to replace parts which are subject to wear and damage.

(c) Dry Chemical Feeders.

Dry chemical feeders shall:

(i) measure feed rate of chemicals volumetrically or gravimetrically, and

(ii) provide adequate solution water and agitation of the chemical in the solution tank.

(d) Feed Rate Control.

(i) Feeders may be manually or automatically controlled, with automatic controls being designed to allow override by manual controls.

(ii) Chemical feed rates shall be proportional to flows.

(iii) A means to measure water flow rate shall be provided.

(iv) Provisions shall be made for measuring the quantities of chemicals used.

(v) Weighing scales:

(A) shall be provided for weighing cylinders at all plants using chlorine gas,

(B) may be required for fluoride solution feed, where applicable,

(C) shall be provided for volumetric dry chemical feeders, and

(D) shall be accurate to measure increments of 0.5 percent of scale capacity.

(8) Feeder Appurtenances.

(a) Liquid Chemical Solution Pumps.

Positive displacement type solution feed pumps shall be used to feed liquid chemicals, but shall not be used to feed chemical slurries. Pumps must be sized to match or exceed maximum head conditions found at the point of injection. All liquid chemical feeders shall be provided with devices approved by the Utah Plumbing Code which will prevent the siphoning of liquid chemical through the pump.

(b) Solution Tanks.

(i) A means consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in suspension.

(ii) Means shall be provided to measure the solution level in the tank.

(iii) Chemical solutions shall be kept covered. Large tanks with access openings shall have the openings curbed and fitted with tight overhanging covers.

(iv) Subsurface locations are discouraged, but when used for solution tanks shall:

(A) be free from sources of possible contamination, and

(B) assure positive drainage for ground waters, accumulated water, chemical spills and overflows.

(v) Overflow pipes, when provided, shall:

(A) have a free fall discharge, and

(B) be located where noticeable.

(vi) Acid storage tanks shall be vented to the outside atmosphere, but not through vents in common with day tanks.



(vii) Each tank shall be provided with a valved drain, protected against backflow in accordance with R309-525-11(10)(b) and R309-525-11(10)(c).

(viii) Solution tanks shall be located and protective curbing provided so that chemicals from equipment failure, spillage or accidental drainage shall not enter the water in conduits, treatment or storage basins.

(ix) When polymers are used, storage tanks shall be located away from heat sources and direct sunlight.

(c) Day Tanks.

(i) Day tanks shall be provided where dilution of liquid chemical is required prior to feeding.

(ii) Day tanks shall meet all the requirements of R309-525-11(9)(b).

(iii) Certain chemicals, such as polymers, become unstable after hydration, therefore, day tanks shall hold no more than a thirty hour supply unless manufacturer's recommendations allow for longer periods.

(iv) Day tanks shall be scale-mounted, or have a calibrated gauge painted or mounted on the side if liquid levels cannot be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a referenced point at the top of the tank, attached to a float may be used. The ratio of the cross-sectional area of the tank to its height must be such that unit readings are meaningful in relation to the total amount of chemical fed during a day.

(v) Hand pumps may be provided for transfer from a carboy or drum. A top rack may be used to permit withdrawal into a bucket from a spigot. Where motor-driven transfer pumps are provided a liquid level limit switch and an overflow from the day tank, which will drain by gravity back into the bulk storage tank, must be provided, unless spill containment is provided for both bulk and day tanks.

(vi) A means which is consistent with the nature of the chemical solution shall be provided to maintain uniform strength of solution in a day tank. continuous agitation shall be provided to maintain chemical slurries in suspension.

(vii) Tanks shall be properly labeled to designate the chemical contained.

(d) Feed Lines.

(i) Feed lines shall be as short as possible in length of run, and be:

- (A) of durable, corrosion resistant material,
- (B) easily accessible throughout the entire length,
- (C) protected against freezing, and
- (D) readily cleanable.

(ii) Feed lines shall slope upward from the chemical source to the feeder when conveying gases.

(iii) Lines shall be designed with due consideration of scale forming or solids depositing properties of the water, chemical, solution or mixture conveyed.

(9) Make up Water Supply and Protection.

(a) In Plant Water Supply.

In plant water supply shall be:

(i) Ample in supply, adequate in pressure, and of a quality equal to or better than the water at the point of application.

(ii) Provided with means for measurement when preparing specific solution concentrations by dilution.

(iii) Properly protected against backflow.

(b) Cross-Connection Control.

Cross-connection control shall be provided to assure that:

(i) The make-up waterlines discharging to solution tanks shall be properly protected from backflow as required by the Utah Plumbing Code.

(ii) Liquid chemical solutions cannot be siphoned through solution feeders into the process units as required in R309-525-11(9)(c).

(iii) No direct connection exists between any sewer and the drain or overflow from the feeder, solution chamber or tank by providing that all pipes terminate at least six inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle.

(iv) Pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor shall have a separate shut-off valve. No master shut off valve will be allowed.

(c) Liquid Chemical Feeders, Siphon Control.

Liquid chemical feeders shall be such that chemical solutions cannot be siphoned into the process units, by:

- (i) Assuring positive pressure at the point of discharge,
  - (ii) Providing vacuum relief,
  - (iii) Providing a suitable air gap, or
  - (iv) Other suitable means or combinations as necessary.
- (10) Operator Safety.

Design of the plant shall be in accordance with the Utah Occupational Safety and Health Act (UOSHA). The designer and public water system management are responsible to see that they incorporate applicable UOSHA standards into the facility design and operation. Review of facility plans by the Division shall be limited to the following ~~recommendations~~ requirements:

(a) Floor surfaces ~~should~~ shall be smooth and impervious, slip-proof and well drained,

(b) At least one pair of rubber gloves, a dust respirator of a type certified by the National Institute of Occupational Safety and Health (NIOSH) for toxic dusts, an apron or other protective clothing and goggles or face mask should be provided for each operator, A deluge shower and/or eye washing device ~~should~~ shall be installed where strong acids and alkalis are used or stored.

(c) A water holding tank that will allow water to reach room temperature should be installed in the water line feeding the deluge shower and eye washing device. Other methods of water tempering may be available.

(d) Adequate ventilation should be provided.

(11) Design for Specific Chemicals.

Design of the plant shall be in accordance with the Utah Occupational Safety and Health Act (UOSHA). The designer and public water system management are responsible to see that they incorporate applicable UOSHA standards into the facility design and operation. Review of facility plans by the Division shall be limited to the following ~~recommendations~~ requirements:

Acids and Caustics.

(i) Acids and caustics ~~should~~ shall be kept in closed corrosion-resistant shipping containers or storage units.

(ii) Acids and caustics ~~should~~ shall not be handled in open vessels, but ~~should~~ shall be pumped in undiluted form from original containers through suitable hose, to the point of treatment or to a covered day tank.

Sodium Chlorite for Chlorine Dioxide Generation.

Proposals for the storage and use of sodium chlorite should be approved by the ~~[Executive Secretary]~~ Director prior to the preparation of final plans and specifications. Provisions ~~[should]~~ shall be made for proper storage and handling of sodium chlorite to eliminate any danger of explosion.

(i) Sodium Chlorite Storage: (A) Sodium chlorite ~~[should]~~ shall be stored by itself in a separate room and preferably should be stored in an outside building detached from the water treatment facility. It ~~[should]~~ shall be stored away from organic materials which would react violently with sodium chlorite; (B) The storage structures ~~[should]~~ shall be constructed of noncombustible materials; (C) If the storage structure is to be located in a area where a fire may occur, water ~~[should]~~ shall be available to keep the sodium chlorite area sufficiently cool to prevent decomposition from heat and resultant potential explosive conditions.

(ii) Sodium Chlorite Handling: (A) Care should be taken to prevent spillage; (B) An emergency plan of operation ~~[should]~~ shall be available for the clean up of any spillage; (C) Storage drums should be thoroughly flushed prior to recycling or disposal.

(iii) Sodium Chlorite Feeders: (A) Positive displacement feeders should be provided; (B) Tubing for conveying sodium chlorite or chlorine dioxide solutions ~~[should]~~ shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer; (C) Feed lines ~~[should]~~ shall be installed in a manner to prevent formation of gas pockets and ~~[should]~~ shall terminate at a point of positive pressure; (D) Check valves ~~[should]~~ shall be provided to prevent the backflow of chlorine into the sodium chlorite line.

#### **R309-525-12. Mixing.**

(1) Flash Mix.

(a) Equipment - Mechanical, in-line or jet mixing devices shall be used.

(b) Mixing - All devices used in rapid mixing shall be capable of imparting a minimum velocity gradient (G) of at least 750 fps per foot. Mixing time shall be less than thirty seconds.

(c) Location - The flash mix and flocculation basins shall be as close together as possible.

(d) Introduction of chemicals - Primary coagulant chemicals shall be added at the point of maximum turbulence within the flash mix unit. Where in-line mixing devices are used chemical injection ~~[should]~~ shall be at the most appropriate upstream point.

(2) Flocculation.

(a) Basin design.

Inlet and outlet design shall prevent short-circuiting and destruction of floc. A drain or pumps shall be provided to handle dewatering and sludge removal.

(b) Detention.

The flow-through velocity shall not be less than 0.5 feet per minute nor greater than 1.5 feet per minute with a detention time for floc formation of at least 30 minutes.

(c) Equipment.

Agitators shall be driven by variable speed drives with the peripheral speed of paddles ranging from 0.5 fps to 2.0 fps. Equipment shall be capable of imparting a velocity gradient (G) between 25 fps per foot and 80 fps per foot to the water treated. Compartmentalized tapered energy flocculation concept may also be used in which G tapers from 100 fps to 10 fps per foot.

(d) Hydraulic flocculation.

Hydraulic flocculation may be permitted and shall be reviewed on a case by case basis. The unit must yield a G value equivalent to that required by b and c above.

(e) Piping.

Flocculation and sedimentation basins shall be as close as possible. The velocity of flocculated water through pipes or conduits to settling basins shall not be less than 0.5 fps nor greater than 1.5 fps. Allowance must be made to minimize turbulence at bends and changes in direction.

(f) Other designs.

Baffling may be used to provide for flocculation in small plants only after ~~[consultation with the Division]~~ approval by the Director. The design shall be such that the velocities and flows noted above will be maintained.

(g) Visible floc.

The flocculation unit shall be capable of producing a visible, settleable floc.

#### **R309-525-13. Sedimentation.**

(1) General Design Requirements.

Sedimentation shall follow flocculation. The detention time for effective clarification is dependent upon a number of factors related to basin design and the nature of the raw water. The following criteria apply to conventional sedimentation units:

(a) Inlet devices.

Inlets shall be designed to distribute the water equally and at uniform velocities. Open ports, submerged ports, or similar entrance arrangements are required. A baffle shall be constructed across the basin close to the inlet end and shall project several feet below the water surface to dissipate inlet velocities and provide uniform flows across the basin.

(b) Outlet devices.

Outlet devices shall be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. The use of submerged orifices is recommended in order to provide a volume above the orifices for storage when there are fluctuations in the flow.

(c) Emergency Overflow.

An overflow weir (or pipe) shall be installed which will establish the maximum water level desired on top of the filters. It shall discharge by gravity with a free fall to a location where the discharge will be visible.

(d) Sludge Removal.

Sludge removal design shall provide that:

(i) sludge pipes shall be not less than three inches in diameter and arranged to facilitate cleaning,

(ii) entrance to sludge withdrawal piping shall prevent clogging,

(iii) valves shall be located outside the basin for accessibility, and

(iv) the operator may observe and sample sludge being withdrawn from the unit.

(v) Sludge collection shall be accomplished by mechanical means.

(e) Drainage.

Basins shall be provided with a means for dewatering. Basin bottoms shall slope toward the drain not less than one foot in 12 feet where mechanical sludge collection equipment is not provided.

## (f) Flushing lines.

Flushing lines or hydrants shall be provided and shall be equipped with backflow prevention devices acceptable to the [~~Executive Secretary~~]Director.

## (g) Safety.

Appropriate safety devices shall be included as required by the Occupational Safety and Health Act (OSHA).

## (h) Removal of floating material.

Provision shall be made for the periodic removal of floating material.

## (2) Sedimentation Without Tube Settlers.

If tube settling equipment is not used within settling basins, the following requirements apply:

## (a) Detention Time.

A minimum of four hours of detention time shall be provided. Reduced sedimentation time may be approved when equivalent effective settling is demonstrated or multimedia filtration is employed.

## (b) Weir Loading.

The rate of flow over the outlet weir shall not exceed 20,000 gallons per day per foot of weir length. Where submerged orifices are used as an alternate for overflow weirs they shall not be lower than three feet below the water surface when the flow rates are equivalent to weir loading.

## (c) Velocity.

The velocity through settling basins shall not exceed 0.5 feet per minute. The basins shall be designed to minimize short-circuiting. Fixed or adjustable baffles shall be provided as necessary to achieve the maximum potential for clarification.

## (d) Depth.

The depth of the sedimentation basin shall be designed for optimum removal.

## (3) Sedimentation With Tube Settlers.

Proposals for settler unit clarification shall be approved by the [~~Executive Secretary~~]Director prior to the preparation of final plans and specifications.

(a) Inlet and outlet design shall be such to maintain velocities suitable for settling in the basin and to minimize short circuiting.

(b) Flushing lines shall be provided to facilitate maintenance and be properly protected against backflow or back siphonage. Drain and sludge piping from the settler units shall be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant.

(c) Although most units will be located within a plant, design of outdoor installations shall provide sufficient freeboard above the top of settlers to prevent freezing in the units.

(d) The design application rate shall be a maximum rate of 2 gal/sq.ft./min of cross-sectional area (based on 24-inch long 60 degree tubes or 39.5-inch long 7.5 degree tubes), unless higher rates are successfully shown through pilot plant or in-plant demonstration studies.

**R309-525-14. Solids Contact Units.**

## (1) General.

Solids contact units are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. Before such units are considered as

clarifiers without softening, specific approval of the [~~Executive Secretary~~]Director shall be obtained. A minimum of two units are required for surface water treatment.

## (2) Installation of Equipment

The design engineer shall see that a representative of the manufacturer is present at the time of initial start-up operation to assure that the units are operating properly.

## (3) Operation of Equipment.

The following shall be provided for plant operation:

(a) a complete outfit of tools and accessories,

(b) necessary laboratory equipment, and

(c) adequate piping with suitable sampling taps so located as to permit the collection of samples of water from critical portions of the units.

## (4) Chemical feed.

Chemicals shall be applied at such points and by such means as to insure satisfactory mixing of the chemicals with the water.

## (5) Mixing.

A flash mix device or chamber ahead of solids contact units may be required to assure proper mixing of the chemicals applied. Mixing devices employed shall be so constructed as to:

(a) provide good mixing of the raw water with previously formed sludge particles, and

(b) prevent deposition of solids in the mixing zone.

## (6) Flocculation.

Flocculation equipment:

(a) shall be adjustable (speed and/or pitch),

(b) shall provide for coagulation in a separate chamber or baffled zone within the unit, and

(c) shall provide the flocculation and mixing period to be not less than 30 minutes.

## (7) Sludge concentrators.

(a) The equipment shall provide either internal or external concentrators in order to obtain a concentrated sludge with a minimum of waste water.

(b) Large basins shall have at least two sumps for collecting sludge with one sump located in the central flocculation zone.

## (8) Sludge removal.

Sludge removal design shall provide that:

(a) sludge pipes shall be not less than three inches in diameter and so arranged as to facilitate cleaning,

(b) the entrance to the sludge withdrawal piping shall prevent clogging,

(c) valves shall be located outside the tank for accessibility, and

(d) the operator may observe and sample sludge being withdrawn from the unit.

## (9) Cross-connections.

(a) Blow-off outlets and drains shall terminate and discharge at places satisfactory to the [~~Executive Secretary~~]Director.

(b) Cross-connection control must be included for the finished drinking water lines used to back flush the sludge lines.

## (10) Detention period.

The detention time shall be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. Based on design flow rates, the detention time shall be:

(a) two to four hours for suspended solids contact clarifiers and softeners treating surface water, and

(b) one to two hours for suspended solids contact softeners treating only ground water.

(11) Suspended slurry concentrate.

Softening units shall be designed so that continuous slurry concentrates of one percent or more, by weight, can be satisfactorily maintained.

(12) Water losses.

(a) Units shall be provided with suitable controls for sludge withdrawal.

(b) Total water losses shall not exceed:

(i) five percent for clarifiers,

(ii) three percent for softening units.

(c) Solids concentration of sludge bled to waste shall be:

(i) three percent by weight for clarifiers,

(ii) five percent by weight for softeners.

(13) Weirs or orifices.

The units shall be equipped with either overflow weirs or orifices constructed so that water at the surface of the unit does not travel over 10 feet horizontally to the collection trough.

(a) Weirs shall be adjustable, and at least equivalent in length to the perimeter of the basin.

(b) Weir loading shall not exceed:

(i) 10 gpm per foot of weir length for units used for clarifiers

(ii) 20 gpm per foot of weir length for units used for softeners.

(c) Where orifices are used the loading rates per foot of launderer shall be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank.

(14) Upflow rates.

Upflow rates shall not exceed:

(a) 1.0 gpm/sf at the sludge separation line for units used for clarifiers,

(b) 1.75 gpm/sf at the slurry separation line for units used as softeners.

### **R309-525-15. Filtration.**

(1) General.

Filters may be composed of one or more media layers. Mono-media filters are relatively uniform throughout their depth. Dual or multi-layer beds of filter material are so designed that water being filtered first encounters coarse material, and progressively finer material as it travels through the bed.

(2) Rate of Filtration.

(a) The rate of filtration shall be determined through consideration of such factors as raw water quality, degree of pretreatment provided, filter media, water quality control parameters, competency of operating personnel, and other factors as determined by the ~~[Executive Secretary]~~ Director. Generally, higher filter rates can be assigned for the dual or multi-media filter than for a single media filter because the former is more resistant to filter breakthrough.

(b) The filter rate shall be proposed and justified by the designing engineer to the satisfaction of the ~~[Executive Secretary]~~ Director prior to the preparation of final plans and specifications.

(c) The use of dual or multi-media filters may allow a reduction of sedimentation detention time (see R309-525-13(2)(a)) due to their increased ability to store sludge.

(d) Filter rates assigned by the ~~[Executive Secretary]~~ Director must never be exceeded, even during backwash periods.

(e) The use of filter types other than conventional rapid sand gravity filters must receive written approval from the ~~[Executive Secretary]~~ Director prior to the preparation of final plans and specifications.

(3) Number of Filters Required.

At least two filter units shall be provided. Where only two filter units are provided, each shall be capable of meeting the plant design capacity (normally the projected peak day demand) at the approved filtration rate. Where more than two filter units are provided, filters shall be capable of meeting the plant design capacity at the approved filtration rate with one filter removed from service. Refer to R309-525-5 for situations where these requirements may be relaxed.

(4) Media Design.

R309-525-15(4)(a) through R309-525-15(4)(e), which follow, give requirements for filter media design. These requirements are considered minimum and may be made more stringent if deemed appropriate by the ~~[Executive Secretary]~~ Director.

(a) Mono-media, Rapid Rate Gravity Filters.

The allowable maximum filtration rate for a silica sand, mono-media filter is three gpm/sf. This type of filter is composed of clean silica sand having an effective size of 0.35 mm to 0.65 mm and having a uniformity coefficient less than 1.7. The total bed thickness must not be less than 24 inches nor generally more than 30 inches.

(b) Dual Media, Rapid Rate Gravity Filters.

The following applies to all dual media filters:

(i) Total depth of filter bed shall not be less than 24 inches nor generally more than 30 inches.

(ii) All materials used to make up the filter bed shall be of such particle size and density that they will be effectively washed at backwash rates between 15 and 20 gpm/sf. They must settle to reconstitute the bed essentially in the original layers upon completion of backwashing.

(iii) The bottom layer must be at least ten inches thick and consist of a material having an effective size no greater than 0.45 mm and a uniformity coefficient not greater than 1.5.

(iv) The top layer shall consist of clean crushed anthracite coal having an effective size of 0.45 mm to 1.2 mm, and a uniformity coefficient not greater than 1.5.

(v) Dual media filters will be assigned a filter rate up to six gpm/sf. Generally if the bottom fine layer consists of a material having an effective size of 0.35 mm or less, a filtration rate of six gpm/sf can be assigned.

(vi) Each dual media filter must be provided with equipment which shall continuously monitor turbidity in the filtered water. The equipment shall be so designed to initiate automatic backwash if the filter effluent turbidity exceeds 0.3 NTU. If the filter turbidity exceeds one NTU, filter shutdown is required. In plants attended part-time, this shutdown must be accomplished automatically and shall be accompanied by an alarm. In plants

having full-time operators, a one NTU condition need only activate an alarm. Filter shutdown may then be accomplished by the operator.

(c) Tri-Media, Rapid Rate Gravity Filters.

The following applies to all Tri-media filters:

(i) Total depth of filter bed shall not be less than 24 inches nor generally more than 30 inches.

(ii) All materials used to make up the filter bed shall be of such particle size and density that they will be effectively washed at backwash rates between 15 and 20 gpm/sf. They must settle to reconstitute the bed to the normal gradation of coarse to fine in the direction of flow upon completion of backwashing.

(iii) The bottom layer must be at least four inches thick and consist of a material having an effective size no greater than 0.45 mm and uniformity coefficient not greater than 2.2. The bottom layer thickness may be reduced to three inches if it consists of a material having an effective size no greater than 0.25 mm and a uniformity coefficient not greater than 2.2.

(iv) The middle layer must consist of silica sand having an effective size of 0.35 mm to 0.8 mm, and a uniformity coefficient not greater than 1.8.

(v) The top layer shall consist of clean crushed anthracite coal having an effective size of 0.45 mm to 1.2 mm, and a uniformity coefficient not greater than 1.85.

(vi) Tri-media filters will be assigned a filter rate up to 6 gpm/sf. Generally, if the bottom fine layer consists of a material having an effective size of 0.35 mm or less, a filtration rate of six gpm/sf can be assigned.

(vii) Each Tri-media filter must be provided with equipment which shall continuously monitor turbidity in the filtered water. The equipment shall be so designed to initiate automatic backwash if the effluent turbidity exceeds 0.3 NTU. If the filter turbidity exceeds one NTU, filter shutdown is required. In plants attended part-time, this shutdown must be accomplished automatically and shall be accompanied by an alarm. In plants having full-time operators, a one NTU condition need only activate an alarm. Filter shutdown may then be accomplished by the operator.

(d) Granulated Activated Carbon (GAC).

Use of granular activated carbon media shall receive the prior approval of the ~~[Executive Secretary]~~ Director, and must meet the basic specifications for filter material as given above, and:

(i) There shall be provision for adding a disinfectant to achieve a suitable residual in the water following the filters and prior to distribution,

(ii) There shall be a means for periodic treatment of filter material for control of biological or other growths,

(iii) Facilities for carbon regeneration or replacement must be provided.

(e) Other Media Compositions and Configurations.

Filters consisting of materials or configurations not prescribed in this section will be considered on experimental data or available operation experience.

(5) Support Media, Filter Bottoms and Strainer Systems.

Care must be taken to insure that filter media, support media, filter bottoms and strainer systems are compatible and will give satisfactory service at all times.

(a) Support Media.

The design of support media will vary with the configuration of the filtering media and the filter bottom. Thus, support media and/or proprietary filter bottoms shall be reviewed on a case-by-case basis.

(b) Filter Bottoms and Strainer Systems.

(i) The design of manifold type collection systems shall:

(A) Minimize loss of head in the manifold and laterals,

(B) Assure even distribution of washwater and even rate of filtration over the entire area of the filter,

(C) Provide a ratio of the area of the final openings of the strainer system to the area of the filter of about 0.003,

(D) Provide the total cross-sectional area of the laterals at about twice the total area of the final openings,

(E) Provide the cross-sectional area of the manifold at 1.5 to 2 times the total area of the laterals.

(ii) Departures from these standards may be acceptable for high rate filter and for proprietary bottoms.

(iii) Porous plate bottoms shall not be used where calcium carbonate, iron or manganese may clog them or with waters softened by lime.

(6) Structural Details and Hydraulics.

The filter structure shall be so designed as to provide for:

(a) Vertical walls within the filter,

(b) No protrusion of the filter walls into the filter media,

(c) Cover by superstructure,

(d) Head room to permit normal inspection and operation,

(e) Minimum water depth over the surface of the filter media of three feet, unless an exception is granted by the ~~[Executive Secretary]~~ Director,

(f) Maximum water depth above the filter media shall not exceed 12 feet,

(g) Trapped effluent to prevent backflow of air to the bottom of the filters,

(h) Prevention of floor drainage to enter onto the filter by installation of a minimum four inch curb around the filters,

(i) Prevention of flooding by providing an overflow or other means of control,

(j) Maximum velocity of treated water in pipe and conduits to filters of two fps,

(k) Cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy or following lime-soda softening,

(l) Washwater drain capacity to carry maximum flow,

(m) Walkways around filters, to be not less than 24 inches wide,

(n) Safety handrails or walls around filter areas adjacent to normal walkways,

(o) No common wall between filtered and unfiltered water shall exist. This requirement may be waived by the ~~[Executive Secretary]~~ Director for small "package" type plants using metal tanks of sufficient thickness,

(p) Filtration to waste for each filter.

(7) Backwash.

(a) Water Backwash Without Air.

Water backwash systems shall be designed so that backwash water is not recycled to the head of the treatment plant unless it has been settled, as a minimum. Furthermore, water backwash systems; including tanks, pumps and pipelines, shall:

(i) Provide a minimum backwash rate of 15 gpm/sf, consistent with water temperatures and the specific gravity of the filter media. The design shall provide for adequate backwash with minimum media loss. A reduced rate of 10 gpm/sf may be acceptable for full depth anthracite or granular activated carbon filters.

(ii) provide finished drinking water at the required rate by washwater tanks, a washwater pump, from the high service main, or a combination of these.

(iii) Permit the backwashing of any one filter for not less than 15 minutes.

(iv) Be capable of backwashing at least two filters, consecutively.

(v) Include a means of varying filter backwash rate and time.

(vi) Include a washwater regulator or valve on the main washwater line to obtain the desired rate of filter wash with washwater valves or the individual filters open wide.

(vii) Include a rate of flow indicator, preferably with a totalizer on the main washwater line, located so that it can be easily read by the operator during the washing process.

(viii) Be designed to prevent rapid changes in backwash water flow.

(ix) Use only finished drinking water.

(x) Have washwater pumps in duplicate unless an alternate means of obtaining washwater is available.

(xi) Perform in conjunction with "filter to waste" system to allow filter to stabilize before introduction into clearwell.

(b) Backwash with Air Scouring.

Air scouring can be considered in place of surface wash when:

(i) air flow for air scouring the filter must be 3 to 5 scfm/sf of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains,

(ii) a method for avoiding excessive loss of the filter media during backwashing must be provided,

(iii) air scouring must be followed by a fluidization wash sufficient to re-stratify the media,

(iv) air must be free from contamination,

(v) air scour distribution systems shall be placed below the media and supporting bed interface; if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system.

(vi) piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity.

(vii) air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which would allow short circuiting between the applied unfiltered water and the filtered water,

(viii) consideration shall be given to maintenance and replacement of air delivery piping,

(ix) when air scour is provided the backwash water rate shall be variable and shall not exceed eight gpm/sf unless operating experience shows that a higher rate is necessary to remove scoured particles from filter surfaces.

(x) the filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain, and

(xi) the provisions of Section R309-525-15(7)(a) (Backwash) shall be followed.

(8) Surface Wash or Subsurface Wash.

Surface wash or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal. Washing may be accomplished by a system of fixed nozzles or a revolving-type apparatus, provided:

(a) Provisions for water pressures of at least 45 psi,

(b) A properly installed vacuum breaker or other approved device to prevent back-siphonage if connected to a finished drinking water system,

(c) All washwater must be finished drinking water,

(d) Rate of flow of two gpm/sf of filter area with fixed nozzles or 0.5 gpm/sf with revolving arms.

(9) Washwater Troughs.

Washwater troughs shall be so designed to provide:

(a) The bottom elevation above the maximum level of expanded media during washing,

(b) A two inch freeboard at the maximum rate of wash,

(c) The top edge level and all edges of trough at the same elevation

(d) Spacing so that each trough serves the same number of square feet of filter areas,

(e) Maximum horizontal travel of suspended particles to reach the trough not to exceed three feet.

(10) Appurtenances.

(a) The following shall be provided for every filter:

(i) Sample taps or means to obtain samples from influent and effluent,

(ii) A gauge indicating loss of head,

(iii) A meter indicating rate-of-flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled,

(iv) A continuous turbidity monitoring device where the filter is to be loaded at a rate greater than three gpm/sf

(v) Provisions for draining the filter to waste with appropriate measures for backflow prevention (see R309-525-23).

(i) Wall sleeves providing access to the filter interior at several locations for sampling or pressure sensing,

(ii) A 1.0 inch to 1.5 inch diameter pressure hose and storage rack at the operating floor for washing filter walls.

(11) Miscellaneous.

Roof drains shall not discharge into filters or basins and conduits preceding the filters.

#### **R309-525-16. In-Plant Finished Drinking Water Storage.**

(1) General.

In addition to the following, the applicable design standards of R309-545 shall be followed for plant storage.

(a) Backwash Water Tanks.

Backwash water tanks shall be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by R309-525-15(7). Consideration shall be given to the backwashing of several filters in rapid succession.

## (b) Clearwell.

Clearwell storage shall be sized, in conjunction with distribution system storage, to relieve the filters from having to follow fluctuations in water use.

(i) When finished water storage is used to provide the contact time for chlorine (see R309-520-10(1)(f), especially subsection (f)(iv)), special attention must be given to size and baffling.

(ii) To ensure adequate chlorine contact time, sizing of the clearwell shall include extra volume to accommodate depletion of storage during the nighttime for intermittently operated filtration plants with automatic high service pumping from the clearwell during non-treatment hours.

(iii) An overflow and vent shall be provided.

## (2) Adjacent Compartments.

Finished drinking water shall not be stored or conveyed in a compartment adjacent to unsafe water when the two compartments are separated by a single wall. The ~~[Executive Secretary]~~Director may grant an exception to this requirement for small "package" treatment plants using metal tanks of sufficient wall thickness.

## (3) Basins and Wet-Wells.

Receiving basins and pump wet-wells for finished drinking water shall be designed as drinking water storage structures. (See Section R309-545)

**R309-525-17. Miscellaneous Plant Facilities.**

## (1) Laboratory.

Sufficient laboratory equipment shall be provided to assure proper operation and monitoring of the water plant. A list of required laboratory equipment is:

- (a) one floc testing apparatus with illuminated base and variable speed stirrer,
- (b) 10 each 1000 ml Griffin beakers (plastic is highly recommended over glass to prevent breakage),
- (c) one 1000 ml graduated cylinder (plastic is highly recommended over glass to prevent breakage),
- (d) pH test strips (6.0 to 8.5),
- (e) five wide mouth 25 ml Mohr pipets,
- (f) one triple beam, single pan or double pan balance with 0.1 g sensitivity and 2000 g capacity (using attachment weights),
- (g) DPD chlorine test kit,
- (h) bench-top turbidimeter,
- (i) five each 1000 ml reagent bottles with caps,
- (j) dish soap,
- (k) brush (2 3/4 inch diameter by 5 inch),
- (l) one platform scale 1/2 lb sensitivity, 100 lb capacity,
- (m) book - Simplified Procedures for Water Examination,

AWWA Manual M12

(2) Continuous Turbidity Monitoring and Recording Equipment.

Continuous turbidity monitoring and recording facilities shall be located as specified in R309-215-9.

## (3) Sanitary and Other Conveniences.

All treatment plants shall be provided with finished drinking water, lavatory and toilet facilities unless such facilities are otherwise conveniently available. Plumbing must conform to the Utah Plumbing Code and must be so installed to prevent contamination of a public water supply.

**R309-525-18. Sample Taps.**

Sample taps shall be provided so that water samples can be obtained from appropriate locations in each unit operation of treatment. Taps shall be consistent with sampling needs and shall not be of the petcock type. Taps used for obtaining samples for bacteriological analysis shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing type, and shall not have a screen, aerator, or other such appurtenance.

**R309-525-19. Operation and Maintenance Manuals.**

Operation and maintenance manuals shall be prepared for the treatment plant and found to be acceptable by the ~~[Executive Secretary]~~Director. The manuals shall be usable and easily understood. They shall describe normal operating procedures, maintenance procedures and emergency procedures.

**R309-525-20. Operator Instruction.**

Provisions shall be made for operator instruction at the start-up of a plant.

**R309-525-21. Safety.**

All facilities shall be designed and constructed with due regard for safety, comfort and convenience. As a minimum, all applicable requirements of Utah Occupational Safety and Health Act (UOSHA) must be adhered to.

**R309-525-22. Disinfection Prior To Use.**

All pipes, tanks, and equipment which can convey or store finished drinking water shall be disinfected in accordance with the following AWWA procedures:

- (1) C651-05 Disinfecting Water Mains
- (2) C652-02 Disinfection of Water Storage Facilities
- (3) C653-03 Disinfection of Water Treatment Plants

**R309-525-23. Disposal of Treatment Plant Waste.**

Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, sludge, and filter backwash water. All waste discharges and treatment facilities shall meet the requirements of the plumbing code, the Utah Department of Environmental Quality, the Utah Department of Health, and the United States Environmental Protection Agency, including the following:

- (1) Rules for Onsite Wastewater Disposal Systems, Utah Administrative Code R317-4.
- (2) Rules for Water Quality, Utah Administrative Code R317.
- (3) Rules for Solid and Hazardous Waste, Utah Administrative Code R315.

In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of a water supply as well as breach or damage due to environmental factors.

**R309-525-24. Other Considerations.**

Consideration shall be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, construction in the flood plain, etc.

**R309-525-25. Operation and Maintenance.**

(1) Water system operators must determine that all chemicals added to water intended for human consumption are suitable for drinking water use and comply with ANSI/NSF Standard 60.

(2) No chemicals or other substances may be added to public water supplies unless the chemical addition facilities and chemical type have been reviewed and approved by the ~~[Executive Secretary]~~Director. The ~~[Executive Secretary]~~Director shall be notified prior to the changing of primary coagulant type. The ~~[Executive Secretary]~~Director may require documentation to verify that sufficient testing and analysis have been done. The primary coagulant may not be changed without prior approval from the ~~[Executive Secretary]~~Director.

(3) During the operation of a conventional surface water treatment plant stable flow rates shall be maintained through the filters.

(4) All instrumentation needed to verify that treatment processes are sufficient shall be properly calibrated and maintained. As a minimum, this shall include turbidimeters.

**KEY: drinking water, flocculation, sedimentation, filtration**

**Date of Enactment or Last Substantive Amendment: ~~[April 27, 2009]~~2013**

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

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

Environmental Quality, Drinking Water  
**R309-530**  
 Facility Design and Operation:  
 Alternative Surface Water Treatment  
 Methods

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37729

FILED: 06/13/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature. One treatment method referred to the "Ten States Standards" which shall govern, has been changed to "compliance with these standards shall be required . . . ."

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 19-4-104(1)(a)(ii)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system. Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to persons to other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water systems and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Ken Bousfield, Director

**R309. Environmental Quality, Drinking Water.**

**R309-530. Facility Design and Operation: Alternative Surface Water Treatment Methods.**

**R309-530-1. Purpose.**

This rule specifies requirements for alternative surface water treatment methods. It is intended to be applied in conjunction with rules R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

**R309-530-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

**R309-530-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

**R309-530-4. General.**

(1) Alternative Methods.

In addition to conventional surface water treatment method (i.e. coagulation, sedimentation and filtration as outlined in R309-525), several alternative methods may also be suitable. They are: Direct Filtration; Slow Sand Filtration; Membrane Filtration; and Diatomaceous Earth Filtration.

(2) Incorporation of Other Rules.

For each process described in this section pertinent rules are given. The designer shall also incorporate the relevant rules given in other sections into the plans and specifications for any of these specialized treatment methods. Where applicable, the following topics shall be addressed:

- (a) Plant Siting (see R309-525-6).
- (b) Pre-design Submittal (see R309-515-5(2)).

- (c) Plant Reliability (see R309-525-7).
- (d) Color Coding and Pipe Marking (see R309-525-8).
- (e) Chemical Addition (see R309-525-11).
- (f) Miscellaneous Plant Facilities (see R309-525-17, particularly sub-section R309-525-17(1), Laboratory).
- (g) Operation and Maintenance Manuals (see R309-525-19).
- (h) Safety (see R309-525-21).
- (i) Disposal of Treatment Plant Waste (see R309-525-23).
- (j) Disinfection (see R309-520).

**R309-530-5. Direct Filtration.**

(1) Chemical Addition and Mixing.

Direct Filtration is conventional surface water treatment without the sedimentation process. Rules for Chemical Addition and Mixing shall be the same as found in sections R309-525-11 and R309-525-12.

(2) Source Water Quality.

Direct Filtration applies the destabilized colloids to the filter rather than removing the majority of the load through sedimentation. While this process represents considerable construction cost savings, the source water must have low average turbidity in order to provide reliable service without excessive backwash requirements. Source water with low average turbidity is generally only obtained from large capacity reservoirs.

(3) Design Requirements.

The following requirements shall apply to Direct Filtration plants:

(a) At least one year's record of source water turbidity, sampled at least once per week, shall be presented to the ~~[Executive Secretary]~~ Director. A Direct Filtration facility will only be permitted if the data shows that 75% of the measurements are below five (5) NTU. The ~~[Executive Secretary]~~ Director shall judge whether Direct Filtration is suitable given the quality of the proposed source water (see R309-515-5(2)(a)(ii)).

(b) Pilot plant studies, acceptable to the ~~[Executive Secretary]~~ Director, shall be conducted prior to the preparation of final engineering plans.

(c) Requirements for flash mix and flocculation basin design are given in sub-sections R309-525-12(1) and R309-525-12(2).

(d) Chemical addition and mixing equipment shall be designed to be capable of providing a visible, but not necessarily settleable, floc.

(e) Surface wash, subsurface wash, or air scour shall be provided for the filters in accordance with sub-section R309-525-15(7).

(f) A continuous monitoring turbidimeter shall be installed on each filter effluent line and shall be of a type with at least two alarm conditions capable of meeting the requirements of subsections R309-525-15(4)(b)(vi) or R309-525-15(4)(c)(vii). The combined plant effluent shall be equipped with a continuous turbidimeter having a chart recorder. Additional monitoring equipment to assist in control of the coagulant dose may be required (i.e. streaming current gauges, particle counters, etc.) if the plant cannot consistently meet the requirements of rule R309-200.

(g) In addition to the alarm conditions required above, the plant shall be designed and operated so that the plant will automatically shut down when a source water turbidity of 20 NTU

lasts longer than three hours, or when the source water turbidity exceeds 30 NTU at any time.

(h) The plant design and land ownership surrounding the plant shall allow for the installation of conventional sedimentation basins. Sedimentation basins may be required if the ~~[Executive Secretary]~~Director determines the plant is failing to meet minimum water quality or performance standards.

**R309-530-6. Slow Sand Filtration.**

(1) Acceptability.

Slow sand filtration means a process involving passage of raw water through a bed of sand at low velocity resulting in substantial particle removal by physical and biological mechanisms. The acceptability of slow sand filters as a substitute for "conventional surface water treatment" facilities (detailed in R309-525) shall be determined by the ~~[Executive Secretary]~~Director based on suitability of the source water and demand characteristics of the system.

(2) Source Water Quality.

The ~~[Executive Secretary]~~Director may impose design requirements in addition to those listed herein, in allowing this process. The following shall be considered, among other factors, in determining whether slow sand filtration will be acceptable:

(a) Source water turbidity must be low and consistent. Slow Sand Filtration shall be utilized only when the source waters have turbidity less than 50 NTU and color less than 30 units (see R309-515-5(2)(a)).

(b) The nature of the turbidity particles shall be considered. Turbidity must not be attributable to colloidal clay.

(c) The nature and extent of algae growths in the raw water shall be considered. Algae must not be a species considered as filter and screen-clogging algae as indicated in "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by American Public Health Association, American Water Works Association, and Water Environment Federation. High concentrations of algae in the raw water can cause short filter runs; the amount of algae, expressed as the concentration of chlorophyll "a" in the raw water shall not exceed 0.005 mg/l.

(3) Pilot Plant Studies.

The ~~[Executive Secretary]~~Director shall allow the use of Slow Sand Filtration only when the supplier's engineering studies show that the slow sand facility can consistently produce an effluent meeting the quality requirements of rule R309-200. The ~~[Executive Secretary]~~Director should be consulted prior to the detailed design of a slow sand facility.

(4) Operation.

Effluent from a Slow Sand Filtration facility shall not be introduced into a public water supply until an active biological mat has been created on the filter.

(5) Design requirements.

The following design parameters shall apply to each Slow Sand Filtration plant:

(a) At least three filter units shall be provided. Where only three units are provided, any two shall be capable of meeting the plant's design capacity (normally the projected "peak daily flow") at the approved filtration rate. Where more than three filter units are provided, the filters shall be capable of meeting the plant design capacity at the approved filtration rate with any one filter removed from service.

(b) All filters shall be protected to prevent freezing. If covered by a structure, enough headroom shall exist to permit normal movement by operating personnel for scraping and sand removal operations. There shall be adequate manholes and access ports for the handling of sand. An overflow at the maximum filter water level shall be provided.

(c) The permissible rates of filtration shall be determined by the quality of the source water and shall be determined by experimental data derived during pilot studies conducted on the source water. Filtration rates of 0.03 gpm/sf to 0.1 gpm/sf shall be acceptable (equivalent to two to six million gallons per day per acre). Somewhat higher rates may be acceptable when demonstrated to the satisfaction of the ~~[Executive Secretary]~~Director.

(d) Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be so spaced that the maximum velocity of the water flow in the underdrain will not exceed 0.75 fps. The maximum spacing of the laterals shall not exceed three feet if pipe laterals are used.

(e) Filter sand shall be placed on graded gravel layers for an initial filter sand depth of 30 inches. A minimum of 24 inches of filter sand shall be present, even after scraping. The effective size of the filter sand shall be between 0.30 mm and 0.45 mm in diameter. The filter sand uniformity coefficient shall not exceed 2.5. Further, the sand shall thoroughly washed and found to be clean and free from foreign matter.

(f) A three-inch layer of well rounded sand shall be used as a supporting media for filter sand. It shall have an effective size of 0.8 mm to 2.0 mm in diameter and the uniformity coefficient shall not be greater than 1.7.

(g) A supporting gravel media shall be provided. It shall consist of hard, durable, rounded silica particles and shall not include flat or elongated particles. The coarsest gravel shall be 2.5 inches in size when the gravel rests directly on the strainer system, and must extend above the top of the perforated laterals. Not less than four layers of gravel shall be provided in accordance with the following size and depth distribution when used with perforated laterals:

TABLE 530-1

Size	Depth
2 1/2 to 1 1/2 inches	5 to 8 inches
1 1/2 to 3/4 inches	3 to 5 inches
3/4 to 1/2 inches	3 to 5 inches
1/2 to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

Reduction of gravel depths may be considered upon justification to the ~~[Executive Secretary]~~Director when proprietary filter bottoms are specified.

(h) Slow sand filters shall be designed to provide a depth of at least three to five feet of water over the sand.

(i) Each filter shall be equipped with: a loss of head gauge; an orifice, venturi meter, or other suitable metering device installed on each filter to control the rate of filtration; and an effluent pipe designed to maintain the water level above the top of the filter sand.

(j) Disinfection of the effluent of Slow Sand Filtration plants will be required.

- (k) A filter-to-waste provision shall be included.
- (l) Electrical power shall be available at the plant site.

**R309-530-7. Diatomaceous Earth Filtration.**

The use of Diatomaceous Earth Filtration units may be considered for application to surface waters with low turbidity and low bacterial contamination, and additionally may be used for iron removal for groundwaters of low quality, providing the removal is effective and the water is of sanitary quality before treatment.

The acceptability of Diatomaceous Earth Filtration as a substitute for "conventional surface water treatment" facilities (detailed in rule R309-525) shall be determined by the ~~[Executive Secretary]~~Director. Determination may be based on the level of support previously exhibited by the public water system management along with a finding by the ~~[Executive Secretary]~~Director that "conventional surface water treatment" or other methods herein described are too costly or unacceptable.

Diatomaceous Earth Filtration consists of a process to remove particles from water wherein a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the source water to maintain the permeability of the filter cake. Diatomite filters are characterized by rigorous operating requirements, high operating costs, and increased sludge production.

Part 4, Section 4.2.3, Diatomaceous Earth Filtration, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 2007 edition is hereby incorporated by reference and compliance with those standards shall ~~govern~~ be required for the design and operation of diatomaceous earth filtration facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

**R309-530-8. Membrane Technology.**

- (1) Acceptability.

Surface waters, or groundwater under the direct influence of surface water (UDI), may be treated using membrane technology (microfiltration, ultrafiltration, nanofiltration) coupled with "primary and secondary disinfection."

- (2) Pilot Plant Study.

Because this is a relatively new technology, appropriate investigation shall be conducted by the public water system to assure that the process will produce the required quality of water at a cost which can be borne by the public water system consumers. A pilot plant study shall be conducted prior to the commencement of design. The study must be conducted in accordance with EPA's Environmental Technology Verification Program (ETV) or the protocol and treated water parameters must be approved prior to conducting any testing by the ~~[Executive Secretary]~~Director.

- (3) Design Requirements.

The following items shall be addressed in the design of any membrane technology plant intended to provide microbiological treatment of surface waters or groundwater "UDI:"

- (a) The facility shall be equipped with an on-line particle counter on the final effluent.

- (b) The facility shall be equipped with an automatic membrane integrity test system.

- (4) The ~~[Executive Secretary]~~Director shall establish the turbidity limit for 95% of turbidity measurements and the maximum turbidity limit which shall not be exceeded. The plant effluent shall meet the requirements of R309-200-5(5)(a)(ii).

**R309-530-9. New Treatment Processes or Equipment.**

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. Refer to EPA's Environmental Technology Verification Program (ETV).

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence satisfactory to the ~~[Executive Secretary]~~Director that the process will insure the delivery of water of safe, sanitary quality, without imposing undue problems of supervision, operation and/or control.

The ~~[Executive Secretary]~~Director shall establish the turbidity limit for 95% of turbidity measurements and the maximum turbidity limit which shall not be exceeded. The plant effluent shall meet the requirements of R309-200-5(5)(a)(ii).

**KEY: drinking water, direct filtration, slow sand filtration, membrane technology**

**Date of Enactment or Last Substantive Amendment: ~~[April 27, 2009]~~2013**

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

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

**Environmental Quality, Drinking Water  
R309-535**

**Facility Design and Operation:  
Miscellaneous Treatment Methods**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 37730

FILED: 06/13/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The changes are required to conform with S.B. 21, 2012 General Legislative Session (Chapter 360, Laws of Utah 2012).

**SUMMARY OF THE RULE OR CHANGE:** The term "Executive Secretary" has been changed to "Director" to reflect the change in Utah law passed by the legislature. The word "should" in several requirements has been replaced with "shall" for clarification. Several treatment methods referred to the "Ten States Standards" which shall govern, has been changed to "compliance with these standards shall be required . . . ."

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-4-104(1)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase Division Staff time in administering the amended rule. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to the state budget.

◆ **LOCAL GOVERNMENTS:** The Division of Drinking Water regulates public drinking water systems and local governments are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect local governments. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to local government.

◆ **SMALL BUSINESSES:** The Division of Drinking Water regulates public drinking water systems and small businesses are not part of the regulated community. Because this rule amendment is only procedural in nature, it should not affect small businesses. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division of Drinking Water regulates public drinking water systems and persons other than small businesses, businesses, and local government entities are not part of the regulated community, unless they are a public water system. Because this rule amendment is only procedural in nature, it should not affect persons other than small businesses, businesses, or local government entities. Therefore, there should be no significant cost or savings from this change in the proposed rule amendment to persons to other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division of Drinking Water regulates public drinking water systems. This rule amendment changes who has authority to make regulatory decisions and clarifies the rule language on requirements. Because this rule amendment is only procedural in nature, it should not significantly increase the time public drinking water system and their engineering consultants spend in submitting projects for plan review and approval. Therefore, there should be no significant cost or savings from this rule amendment to the public water systems.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed rule amendment will not impact businesses. These changes will be transparent to Public Drinking Water systems and will clarify compliance with the drinking water rules.

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 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/08/2013

AUTHORIZED BY: Ken Bousfield, Director

**R309. Environmental Quality, Drinking Water.**

**R309-535. Facility Design and Operation: Miscellaneous Treatment Methods.**

**R309-535-1. Purpose.**

The purpose of this rule is to provide specific requirements for miscellaneous water treatment methods which are primarily intended to remove chemical contaminants from drinking water; or, adjust the chemical composition of drinking water. It is intended to be applied in conjunction with other rules, specifically R309-500 through R309-550. Collectively, these rules govern the design, construction, operation and maintenance of public drinking water system facilities. These rules are intended to assure that such facilities are reliably capable of supplying adequate quantities of water which consistently meet applicable drinking water quality requirements and do not pose a threat to general public health.

**R309-535-2. Authority.**

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

**R309-535-3. Definitions.**

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

**R309-535-4. General.**

For each process described in this section pertinent rules are given. The designer must also, however, incorporate the relevant rules given in other sections into the plans and specifications for any of these specialized treatment methods. Where applicable, the following topics must be addressed:

- (1) Plant Siting (see R309-525-6).
- (2) Plant Reliability (see R309-525-7).
- (3) Color Coding and Pipe Marking (see R309-525-8).
- (4) Chemical Addition (see R309-525-11).
- (5) Miscellaneous Plant Facilities (see R309-525-17, particularly sub-section R309-525-17(1), Laboratory).
- (6) Operation and Maintenance Manuals (see R309-525-19).
- (7) Safety (see R309-525-21).
- (8) Disposal of Treatment Plant Waste (see R309-525-23).
- (9) Disinfection (see R309-520).

#### **R309-535-5. Fluoridation.**

Sodium fluoride, sodium silicofluoride and fluorosilicic acid shall conform to the applicable AWWA standards and/or ANSI/NSF Standard 60. Other fluoride compounds which may be available must be approved by the ~~[Executive Secretary]~~Director.

##### (1) Fluoride compound storage.

Fluoride chemicals ~~should~~shall be isolated from other chemicals to prevent contamination. Compounds shall be stored in covered or unopened shipping containers and ~~should~~shall be stored inside a building. Unsealed storage units for fluorosilicic acid ~~should~~shall be vented to the atmosphere at a point outside any building. Bags, fiber drums and steel drums ~~should~~shall be stored on pallets.

##### (2) Chemical feed equipment and methods.

In addition to the requirements in R309-525-11 "Chemical Addition", fluoride feed equipment shall meet the following requirements:

- (a) scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five percent of the average daily change in reading shall be provided for chemical feeds,
- (b) feeders shall be accurate to within five percent of any desired feed rate,
- (c) fluoride compound shall not be added before lime-soda softening or ion exchange softening,
- (d) the point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe,
- (e) a fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than 20 strokes per minute,
- (f) a spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines,
- (g) a device to measure the flow of water to be treated is required,
- (h) the dilution water pipe shall terminate at least two pipe diameters above the solution tank,
- (i) water used for sodium fluoride dissolution shall be softened if hardness exceeds 75 mg/l as calcium carbonate,
- (j) fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided,
- (k) the electrical outlet used for the fluoride feed pump ~~should~~shall have a nonstandard receptacle and shall be interconnected with the well or service pump,
- (l) saturators ~~should~~shall be of the upflow type and be provided with a meter and backflow protection on the makeup water line.

(m) lead weights shall not be used in fluoride chemical solutions to keep pump suction lines at the bottom of a day or bulk storage tank.

##### (3) Secondary controls.

Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices.

##### (4) Protective equipment.

Personal protective equipment as outlined in R309-525-11(10) shall be provided for operators handling fluoride compounds. Deluge showers and eye wash devices shall be provided at all fluorosilicic acid installations.

##### (5) Dust control.

(a) Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which place the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building.

(b) Provision shall be made for disposing of empty bags, drums or barrels in a manner which will minimize exposure to fluoride dusts. A floor drain ~~should~~shall be provided to facilitate the hosing of floors.

##### (6) Testing equipment.

Equipment shall be provided for measuring the quantity of fluoride in the water. Such equipment shall be subject to the approval of the ~~[Executive Secretary]~~Director.

#### **R309-535-6. Taste and Odor Control.**

Part 4, Section 4.9, Taste and Odor Control, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 2007 edition is hereby incorporated by reference and compliance with those standards shall governbe required for the design and operation of taste and odor control facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

#### **R309-535-7. Stabilization.**

Part 4, Section 4.8, Stabilization, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 2007 edition is hereby incorporated by reference and compliance with those standards shall governbe required for the design and operation of stabilization facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

#### **R309-535-8. Deionization.**

Current practical methods of deionization include Ion Exchange, Reverse Osmosis and Electrodialysis. Additional methods of deionization may be approved subject to the presentation of evidence of satisfactory reliability.

All properly developed groundwater sources having water quality exceeding 2,000 mg/l Total Dissolved Solids and/or 500

mg/l Sulfate shall be either properly diluted or treated by the methods outlined in this section. Deionization cannot be considered a substitute process for conventional complete treatment outlined in R309-525.

(1) Ion Exchange.

(a) General.

Great care shall be taken by the designer to avoid loading the media with water high in organics.

(b) Design.

(i) Pretreatment shall be provided per the manufacturer's recommendation.

(ii) Upflow or down flow units are acceptable.

(iii) Exchangers shall have at least a three foot media depth.

(iv) Exchangers shall be designed to meet the recommendations of the media manufacturer with regard to flow rate or contact time. In any case, flow shall not exceed seven gpm/sf of bed area. The plant shall be provided with an influent or effluent meter as well as a meter on any bypass line.

(v) Chemical feeders used shall conform with R309-525-8. All solution tanks shall be covered.

(vi) Regenerants added shall be uniformly distributed over the entire media surface of upflow or downflow units. Regeneration shall be according to the media manufacturer's recommendations.

(vii) The wash rate capability shall be in excess of the ~~manufacturers~~ manufacturer's recommendation and should be at least six to eight gpm/sf of bed area.

(viii) Disinfection (see R309-520) shall be required ahead of the exchange units where this does not interfere with the media.

Where disinfection interferes with the media, disinfection shall follow the treatment process.

(c) Waste Disposal.

Waste generated by ion exchange treatment shall be disposed of in accordance with R309-525-23.

(2) Reverse Osmosis.

(a) General.

The design shall permit the easy exchange of modules for cleaning or replacement.

(b) Design Criteria.

(i) Pretreatment shall be provided per the manufacturer's recommendation.

(ii) Required equipment includes the following items: pressure gauges on the upstream and downstream side of the filter; a conductivity meter present at the site; taps for sampling permeate, concentrate and blended flows (if practiced). If a continuous conductivity meter is permanently installed, piping shall be such that the meter can be disconnected and calibrated with standard solutions at a frequency as recommended by the manufacturer.

(iii) Aeration, if practiced, shall conform with provisions of R309-535-9.

(iv) Cleaning shall be routinely done in accordance with the manufacturer's recommendations.

(v) Where the feed water pH is altered, stabilization of the finished water is mandatory.

(c) Waste Disposal.

Waste generated by reverse osmosis treatment shall be disposed of in accordance with R309-525-23.

(3) Electrodialysis.

(a) General.

(b) Design.

(i) Pretreatment shall be provided per the manufacturers recommendation.

(ii) The design shall include ability to: measure plant flow rates; measure feed temperature if the water is heated (a high temperature automatic cutoff is required to prevent membrane damage); measure D.C voltage at the first and second stages as well as on each of the stacks. Sampling taps shall be provided to measure the conductivity of the feed water, blowdown water, and product water. D.C. and A.C. kilowatt-hour meters to record the electricity used shall also be provided.

(c) Waste Disposal.

Waste generated by electrodialysis treatment shall be disposed of in accordance with R309-525-23.

#### **R309-535-9. Aeration.**

Part 4, Section 4.5, Aeration, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 2007 edition, is hereby incorporated by reference and compliance with those standards shall ~~govern~~ be required for the design and operation of aeration facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

#### **R309-535-10. Softening.**

Part 4, Section 4.4, Softening, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 2007 edition, is hereby incorporated by reference and compliance with those standards shall ~~govern~~ be required for the design and operation of softening facilities. This document is published by the Great Lakes-Upper Mississippi River Board of Public Health and Environmental Managers. A copy is available in the office of the Division for reference.

#### **R309-535-11. Iron and Manganese Control.**

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the source water. The selection of one or more treatment processes shall meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive approval of the ~~Executive Secretary~~ Director. It may be necessary to operate a pilot plant in order to gather all information pertinent to the design. Consideration should be given to adjust the pH of the raw water to increase the rate of the chemical reactions involved.

Removal or treatment of iron and manganese are normally by the following methods:

(1) Removal by Oxidation, Detention and Filtration.

(a) Oxidation.

Oxidation may be by aeration, or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide.

(b) Detention.

(i) Reaction time - A minimum detention time of twenty minutes shall be provided following aeration in order to insure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot plant study indicates

no need for detention. The detention basin shall be designed as a holding tank with no provisions for sludge collection but with sufficient baffling to prevent short circuiting.

(ii) Sedimentation - Sedimentation basins shall be provided when treating water with high iron and/or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made.

(c) Filtration.

(i) General - Minimum criteria relative to number, rate of filtration, structural details and hydraulics, filter media, etc., provided for rapid rate gravity filters shall apply to pressure filters where appropriate, and may be used in this application but cannot be used in the filtration of surface waters or following lime-soda softening.

(ii) Details of Design for Pressure Filter - The filters shall be designed to provide for:

(A) Loss of head gauges on the inlet and outlet pipes of each filter,

(B) An easily readable meter or flow indicator on each battery of filters,

(C) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes,

(D) The top of the washwater collectors to be at least twenty-four (24) inches above the surface of the media,

(E) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate capable of not less than 15 gpm/sf of filter area,

(F) Backwash flow indicators and controls that are easily readable while operating the control valves,

(G) An air release valve on the highest point of each filter,

(H) An accessible manhole to facilitate inspections and repairs,

(I) Means to observe the wastewater and filters during backwashing, and

(J) Construction to prevent cross-connection.

(2) Removal by the Lime-soda Softening Process.

For removal by the lime-soda softening process refer to Part 4, Section 4.4, Softening, in the Recommended Standards for Water Works (commonly known as "Ten State Standards"), 2007 edition as indicated in R309-535-10. Those standards are hereby incorporated by reference and compliance with those standards shall be required for removal by the lime-soda softening process.

(3) Removal by Manganese Greensand Filtration.

This process, consisting of the continuous feed of potassium permanganate to the influent of a manganese greensand filter, is more applicable to the removal of manganese than the removal of iron.

(a) Provisions shall be made to apply the permanganate as far ahead of the filter as practical and at a point immediately before the filter.

(b) An anthracite media cap of at least six inches shall be provided over manganese greensand.

(c) The normal filtration rate is three gpm/sf.

(d) The normal wash rate is 8 to 10 gpm/sf.

(e) Air washing shall be provided.

(f) Sample taps shall be provided:

(i) prior to application of permanganate,

(ii) immediately ahead of filtration,

(iii) at a point between the anthracite media and the manganese greensand,

(iv) halfway down the manganese greensand, and

(v) at the filter effluent.

(4) Removal by Ion Exchange.

This process is not acceptable where either the source water or wash water contains dissolved oxygen.

(5) Sequestration by Polyphosphates.

This process shall not be used when iron, manganese or a combination thereof exceeds 1.0 milligram per liter. The total phosphate applied shall not exceed 10 milligrams per liter as  $PO_4$ . Where phosphate treatment is used, satisfactory chlorine residuals shall be maintained in the distribution system and the following required:

(a) feeding equipment shall conform to the requirements of R309-525-11(7),

(b) stock phosphate solution shall be kept covered and disinfected by carrying approximately 10 mg/l free chlorine residual,

(c) polyphosphates shall not be applied ahead of iron and manganese removal treatment. If no iron or manganese removal treatment is provided, the point of application shall be prior to any aeration, oxidation or disinfection steps, and

(d) phosphate chemicals must comply with ANSI/NSF Standard 60.

Sampling taps shall be provided for control purposes. Taps shall be located on each raw water source, and on each treatment unit influent and effluent.

Waste generated by iron and manganese control treatment shall be disposed of in accordance with R309-525-23.

#### **R309-535-12. Point-of-Use and Point-of-Entry Treatment Devices.**

Where drinking water does not meet the quality standards of R309-200 and the available water system treatment methods are determined to be unreasonably costly or otherwise undesirable, the ~~[Executive Secretary]~~ Director may permit the public water supplier to install and maintain point-of-use or point-of-entry treatment devices. This approval shall only be given after receipt and satisfactory review of the following items.

(1) The ~~[Executive Secretary]~~ Director shall only consider approving point-of-use or point-of-entry treatment upon receipt of an analysis that clearly demonstrates that central treatment is not feasible for the public water system. Unless waived by the ~~[Executive Secretary]~~ Director, this analysis shall be in the form of an engineering report prepared by a professional engineer registered in the State of Utah. Systems serving fewer than 75 connections are excused from performing an analysis by a Registered Professional Engineer.

(2) The water system shall have a signed access agreement with each customer that allows water system personnel to enter their property on a scheduled basis to install and maintain the treatment devices. The agreement shall include educational information with regard to the health risks of consuming or cooking with water from non-treated taps. Systems with an initial 75% of their connections under a signed access agreement shall be allowed to proceed with the understanding that 100% of their connections are due within a 5 year period. For public water systems that own

or control all connections to the public water system, this requirement will not apply.

(3) Documentation that legal authority, which includes a termination of service clause, has been adopted to ensure water system access to the property for installation, maintenance, servicing and sampling of each treatment unit. For public water systems that own or control all connections to the public water system, this requirement will not apply.

(4) Point-of-use or point-of-entry treatment devices used shall only be those proven to be appropriate, safe and effective as determined through testing and compliance with protocols established by EPA's Environmental Technology Verification Program (ETV) or the applicable ANSI/NSF Standard(s). A pilot study may be required to determine the suitability of the point-of-use or point-of-entry device in treating a particular source water. The scope and duration of the pilot study shall be determined by such factors as the characteristics of the raw water, manufacturer's ratings of the treatment device, and good engineering practices. The pilot study will generate data on service intervals, aid in specifying and calibrating alarm systems, and reveal any site specific problems with component fouling or microbial colonization.

(5) The water system shall provide an operation and maintenance plan demonstrating that the treatment units shall be installed and serviced in accordance with the manufacturer's instructions and that compliance sampling as required in R309-215-6 shall take place. The system shall provide documentation of an operation and maintenance contract or schedule annually as required in R309-105-16(4). If the operation and maintenance of the POU/POE devices is performed by water system personnel, it shall only be performed by a water operator certified at the level of the water system.

(6) The performance indicating device for the point-of-use/point-of-entry treatment device that will be used shall be specified in the submittal for plan approval.

(7) The water system shall submit a customer education and out-reach plan that includes at a minimum annual frequency of contact.

(8) Point-of-use or point-of-entry treatment devices for compliance with the nitrate MCL shall only be considered if treatment is provided at all taps that are accessible to the public.

#### **R309-535-13. New Treatment Processes or Equipment.**

The policy of the Board is to encourage, rather than to obstruct, the development of new methods and equipment for the treatment of water. Nevertheless, any new processes or equipment must have been thoroughly tested in full-scale, comparable installations, before approval of plans can be issued. The U.S. Environmental Protection Agency (EPA) has created the Environmental Technology Verification (ETV) Program to facilitate the deployment of innovative or improved environmental technologies through performance verification and dissemination of information. NSF International (NSF) in cooperation with the EPA operates the Package Drinking Water Treatment Systems (PDWTS) pilot, one of 12 technology areas under ETV. Engineers and Manufacturers are referred to Manager, ETV project, NSF International, P.O. Box 130140, Ann Arbor, Michigan 48113-0140.

No new treatment process will be approved for use in Utah unless the designer or supplier can present evidence

satisfactory to the [~~Executive Secretary~~Director] that the process will insure the delivery of water of safe, sanitary quality, without imposing undue problems of supervision, operation and/or control.

**KEY: drinking water, miscellaneous treatment, stabilization, iron and manganese control**

**Date of Enactment or Last Substantive Amendment:**  
[~~November 16, 2005~~]2013

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

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## Health, Administration **R380-250** HIPAA Privacy Rule Implementation

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 37679

FILED: 06/03/2013

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** S.B. 20, State Security Standards for Personal Information, was passed by the Legislature in the 2013 General Session. The bill requires that a health care provider shall, as part of the notice of privacy practices (NPP) required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), provide notice to the patient or the patient's personal representative that the health care provider either has, or may submit, personally identifiable information (PII) about the patient to the Medicaid eligibility database and to the Children's Health Insurance Program (CHIP) eligibility database. S.B. 20 also requires Medicaid to withhold provider access to the Medicaid eligibility database and to the CHIP eligibility database unless the health care provider's NPP includes a statement that it will or may submit PII to these databases.

**SUMMARY OF THE RULE OR CHANGE:** This amendment limits access to the Medicaid database and to the CHIP eligibility database to providers who include in their NPP a statement that complies with Section 26-18-17.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-18-17

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** State-funded entities such as the State Developmental Center and University Hospitals and Clinics may incur costs in printing or changing their NPP to comply with this new requirement. There is no data, however, to estimate what those costs will be and how those costs will vary by each state-funded entity.

◆ **LOCAL GOVERNMENTS:** Local governments that fund hospitals and providers may incur costs in printing or incur other costs associated with this new NPP requirement. There



is no data, however, to estimate what those costs will be and how those costs will vary by each local government.

♦ **SMALL BUSINESSES:** Medicaid and CHIP providers in small businesses may incur costs in printing or changing their NPP to comply with this new requirement. There is no data, however, to estimate what those costs will be and how those costs will vary by each small business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Some Medicaid and CHIP providers may incur costs in printing or changing their NPP to comply with this new requirement. There is no data, however, to estimate what those costs will be and how those costs will vary by provider group or type. This amendment does not affect Medicaid and CHIP services for clients and further enhances client privacy rights.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A Medicaid provider or a CHIP provider may incur costs in printing or changing their NPP to comply with this new requirement. There is no data, however, to estimate what those costs will be and how those costs will vary by provider group or type.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There may be a minimal one-time cost to providers when they modify their Notice of Privacy Practice. The notices are modified frequently to conform to federal law.

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:**

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R380. Health, Administration.**

**R380-250. HIPAA Privacy Rule Implementation.**

**R380-250-2. Definitions.**

As used in this rule:

(1) "Access" means an eligibility query either telephonically or electronically. This does not include direct access to databases.

([+2]) "Covered program" means the smallest agency or program unit within the Department responsible for carrying out a covered function as that term is used in 45 CFR 164.501.

([23]) "HIPAA Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information found in 45 CFR Part 160 and Subparts A and E of Part 164.

([34]) "Individual" means a natural person. In the case of an individual without legal capacity or a deceased person, the personal representative of the individual.

**R380-250-12. Provider Notice of Privacy Practices.**

A Medicaid provider or a Children's Health Insurance Program (CHIP) provider shall not access the Medicaid database or the CHIP eligibility database, unless the provider's notice of privacy practices contains a statement that the provider either has, or may, submit personally identifiable information about the patient to the Medicaid eligibility database or to the CHIP eligibility database.

**KEY: HIPAA, privacy**

**Date of Enactment or Last Substantive Amendment:** [~~June 9, 2003~~]**2013**

**Notice of Continuation:** May 6, 2013

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-1-17

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-1-5**  
Incorporations by Reference

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 37715

FILED: 06/10/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Subsection 26-18-3(2)(a) requires the Medicaid program to implement policy through administrative rules. The Department, in order to draw down federal funds, must have an approved State Plan with the Centers for Medicare and Medicaid Services (CMS). The purpose of this change, therefore, is to incorporate the most current Medicaid State Plan by reference and to implement by rule both the definitions and the attachment for the Private Duty Nursing Acuity Grid found in the Home Health Agencies Utah Medicaid Provider Manual, and to implement by rule ongoing Medicaid policy for services described in the Medical Supplies Utah Medicaid Provider Manual; Hospital Services Utah Medicaid Provider Manual with its attachments; Speech-Language Services Utah Medicaid Provider Manual; Audiology Services Utah Medicaid Provider Manual; Hospice Care Utah Medicaid Provider Manual; Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual; Personal Care Utah Medicaid Provider Manual; Utah Home

and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual; Office of Inspector General Administrative Hearings Procedures Manual; Pharmacy Services Utah Medicaid Provider Manual; Coverage and Reimbursement Code Lookup Tool; Certified Nurse - Midwife Services Utah Medicaid Provider Manual; CHEC Services Utah Medicaid Provider Manual with its attachments; Chiropractic Medicine Utah Medicaid Provider Manual; Dental Services Utah Medicaid Provider Manual; General Attachments for the Utah Medicaid Provider Manual; Indian Health Utah Medicaid Provider Manual; Laboratory Services Utah Medicaid Provider Manual with its attachments; Medical Transportation Utah Medicaid Provider Manual; Mental Health Centers/ Prepaid Mental Health Plans Utah Medicaid Provider Manual; Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments; Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual; Oral Maxillofacial Surgeon Services Utah Medicaid Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual; Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments; Psychology Services Utah Medicaid Provider Manual; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual; Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual; Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments; School-Based Skills Development Services Utah Medicaid Provider Manual; Section I: General Information of the Utah Medicaid Provider Manual; Services for Pregnant Women Utah Medicaid Provider Manual; Substance Abuse Treatment Services & Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual; Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual; Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; and Vision Care Services Utah Medicaid Provider Manual.

SUMMARY OF THE RULE OR CHANGE: Section R414-1-5 is changed to incorporate the State Plan and approved State Plan Amendments (SPAs) by reference to 07/01/2013. These SPAs include: SPA 13-006-UT, Concurrent Care for Children in Hospice, which implements Section 2302 of the Affordable Care Act. This section of the Act provides that voluntary election of hospice care may not constitute a waiver of a child's right to receive services or for Medicaid to pay for services related to the treatment of the child's terminal condition; SPA 13-009-UT Reimbursement for Physician and Anesthesia Services, which updates the effective date of annual rebasing for physician and anesthesia services to 07/01/2013; SPA 13-010-UT Reimbursement for Optometry Services, which updates the effective date of optometry rates to 07/01/2013; SPA 13-011 Reimbursement for Speech Pathology Services, which updates the effective date of speech pathology rates to 07/01/2013; SPA 13-012-UT Reimbursement for Audiology Services, which updates the effective date of audiology rates to 07/01/2013; SPA 13-013-UT Reimbursement for Chiropractic Services, which updates the effective date of chiropractic rates to 07/01/2013; SPA 13-014-UT Reimbursement for Eyeglasses Services, which updates the effective date of rates for eyeglasses to 07/01/2013; SPA 13-015-UT Reimbursement for Clinic Services, which updates the effective date of clinic rates to 07/01/2013; SPA 13-016-UT Reimbursement for Physical Therapy and Occupational Therapy, which updates the effective date of rates for physical therapy and occupational therapy to 07/01/2013; and SPA 13-017-UT Reimbursement for Rehabilitative Mental Health Services, which updates the effective date of rates for rehabilitative mental health services to 07/01/2013. This rule change also incorporates by reference the Medical Supplies Utah Medicaid Provider Manual; the Hospital Services Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; incorporates by reference both the definitions and the attachment for the Private Duty Nursing Acuity Grid found in the Home Health Agencies Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Speech-Language Services Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Audiology Services Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Hospice Care Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments, effective 07/01/2013; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Personal Care Utah Medicaid Provider Manual, with its attachments, effective 07/01/2013; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, effective

07/01/2013; incorporates by reference the Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, effective 07/01/2013; incorporates by reference the Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, effective 07/01/2013; Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual, effective 07/01/2013; Office of Inspector General Administrative Hearings Procedures Manual, effective 07/01/2013; Pharmacy Services Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; Coverage and Reimbursement Code Look-up Tool, effective 07/01/2013; Certified Nurse -- Midwife Services Utah Medicaid Provider Manual, effective 07/01/2013; CHEC Services Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; Chiropractic Medicine Utah Medicaid Provider Manual; Dental Services Utah Medicaid Provider Manual, effective 07/01/2013; General Attachments for the Utah Medicaid Provider Manual, effective 07/01/2013; Indian Health Utah Medicaid Provider Manual, effective 07/01/2013; Laboratory Services Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; Medical Transportation Utah Medicaid Provider Manual; Mental Health Centers/ Prepaid Mental Health Plans Utah Medicaid Provider Manual, effective 07/01/2013; Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual, effective 07/01/2013; Oral Maxillofacial Surgeon Services Utah Medicaid Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, effective 07/01/2013; Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments, effective 07/01/2013; Psychology Services Utah Medicaid Provider Manual; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, effective 07/01/2013; Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual, effective 07/01/2013; Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments, effective July 1, 2013; School-Based Skills Development Services Utah Medicaid Provider Manual, effective July 1, 2013; Section I: General Information of the Utah Medicaid Provider Manual, effective 07/01/2013; Services for Pregnant Women Utah Medicaid Provider Manual, effective 07/01/2013; Substance Abuse Treatment Services and Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual, effective 07/01/2013; Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider

Manual, effective 07/01/2013; Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual, effective 07/01/2013; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, effective 07/01/2013; and Vision Care Services Utah Medicaid Provider Manual, effective 07/01/2013.

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

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds General Attachments for the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Audiology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Chiropractic Medicine Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Definitions found in the Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds CHEC Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Hospice Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual,

published by Division of Medicaid and Health Financing, 07/01/2013

- ◆ Adds Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Personal Care Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Oral Maxillofacial Surgeon Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Mental Health Centers/Prepaid Mental Health Plans Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Certified Nurse – Midwife Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Medical Supplies Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Medicaid State Plan, published by Centers for Medicare and Medicaid Services, 07/01/2013
- ◆ Adds Dental Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Psychology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid

Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013

- ◆ Adds Laboratory Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Hospital Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Services for Pregnant Women Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Section I: General Information of the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Primary Care Network Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Speech-Language Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Adds Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General, 07/01/2013
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013

- ◆ Adds Substance Abuse Treatment Services and Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, 07/01/2013
- ◆ Updates Pharmacy Services Provider Manual with its attachments, published by Division of Medicaid and Health Financing, 07/01/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to the Department or other state agencies.
- ◆ LOCAL GOVERNMENTS: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to local governments.
- ◆ SMALL BUSINESSES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to Medicaid recipients and to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, the rule's incorporation of ongoing Medicaid policy described in the provider manuals and in the Look-up Tool do not create costs or savings to a single Medicaid recipient or to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No effect on business as the rule helps insure that the providers are accessing the most timely and complete information which will assist in proper billing and payment.

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

HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

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

**R414-1. Utah Medicaid Program.**

**R414-1-5. Incorporations by Reference.**

The Department incorporates the ~~[April]~~July 1, 2013 versions of the following by reference:

- (1) Utah State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;
- (2) Medical Supplies ~~[Manual described in the]~~Utah Medicaid Provider Manual, Section 2, Medical Supplies, as applied in Rule R414-70;
- (3) Hospital Services Utah Medicaid Provider Manual with its attachments;
- (4) Definitions found in the Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;
- (5) Speech-Language Services Utah Medicaid Provider Manual;
- (6) Audiology Services Utah Medicaid Provider Manual;
- (7) Hospice Care Utah Medicaid Provider Manual;
- (8) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;
- (9) Personal Care Utah Medicaid Provider Manual with its attachments;
- (10) Utah Home and Community-Based Waiver Services for Individuals 65 or Older Utah Medicaid Provider Manual;
- (11) Utah Home and Community-Based Waiver Services for Individuals with Acquired Brain Injury Age 18 and Older Utah Medicaid Provider Manual;
- (12) Utah Home and Community-Based Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;
- (13) Utah Home and Community-Based Waiver Services for Individuals with Physical Disabilities Utah Medicaid Provider Manual;
- (14) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

(15) Utah Home and Community-Based Waiver Services for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

(16) Utah Home and Community-Based Waiver Services Autism Waiver Utah Medicaid Provider Manual;

(17) Office of Inspector General Administrative Hearings Procedures Manual;

(18) Pharmacy Services Utah Medicaid Provider Manual with its attachments;[~~and~~]

(19) Coverage and Reimbursement Code Look-up Tool found at [http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php\[-\];](http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php[-];)

(20) Certified Nurse - Midwife Services Utah Medicaid Provider Manual;

(21) CHEC Services Utah Medicaid Provider Manual with its attachments;

(22) Chiropractic Medicine Utah Medicaid Provider Manual;

(23) Dental Services Utah Medicaid Provider Manual;

(24) General Attachments for the Utah Medicaid Provider Manual;

(25) Indian Health Utah Medicaid Provider Manual;

(26) Laboratory Services Utah Medicaid Provider Manual with its attachments;

(27) Medical Transportation Utah Medicaid Provider Manual;

(28) Mental Health Centers/Prepaid Mental Health Plans Utah Medicaid Provider Manual;

(29) Non-Traditional Medicaid Health Plan Utah Medicaid Provider Manual with its attachments;

(30) Certified Family Nurse Practitioner and Pediatric Nurse Practitioner Utah Medicaid Provider Manual;

(31) Oral Maxillofacial Surgeon Services Utah Medicaid Provider Manual;

(32) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual;

(33) Physician Services and Anesthesiology Utah Medicaid Provider Manual with its attachments;

(34) Podiatric Services Utah Medicaid Provider Manual;

(35) Primary Care Network Utah Medicaid Provider Manual with its attachments;

(36) Psychology Services Utah Medicaid Provider Manual;

(37) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

(38) Rehabilitative Mental Health Services for Children Under Authority of Department of Human Services, Division of Child and Family Services or Division of Juvenile Justice Services Utah Medicaid Provider Manual;

(39) Rural Health Clinic Services Utah Medicaid Provider Manual with its attachments;

(40) School-Based Skills Development Services Utah Medicaid Provider Manual;

(41) Section I: General Information of the Utah Medicaid Provider Manual;

(42) Services for Pregnant Women Utah Medicaid Provider Manual;

(43) Substance Abuse Treatment Services and Targeted Case Management Services for Substance Abuse Utah Medicaid Provider Manual;

(44) Targeted Case Management for CHEC Medicaid Eligible Children Utah Medicaid Provider Manual;

(45) Targeted Case Management for the Chronically Mentally Ill Utah Medicaid Provider Manual;

(46) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; and

(47) Vision Care Services Utah Medicaid Provider Manual.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: [May 29,] 2013**

**Notice of Continuation: March 2, 2012**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2**

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-51  
Dental, Orthodontia**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 37696

FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to clarify access requirements, service coverage, limitations, and reimbursement for orthodontia services.

**SUMMARY OF THE RULE OR CHANGE:** This amendment clarifies access requirements, service coverage, limitations, and reimbursement for orthodontia services. It also makes other technical changes.

**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 impact to the state budget because this amendment only clarifies Medicaid policy for orthodontia services.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide Medicaid services to Medicaid recipients.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment only clarifies Medicaid policy for orthodontia services.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to Medicaid providers and to Medicaid recipients because this amendment only clarifies Medicaid policy for orthodontia services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because this amendment only clarifies Medicaid policy for orthodontia services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will likely be cost neutral for the majority of providers.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

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

**R414-51. Dental, Orthodontia.**

**R414-51-1. Introduction and Authority.**

(1) The Medicaid Orthodontia Program provides orthodontia services for Medicaid eligible children who have a handicapping malocclusion as a result of birth defects, accident, or abnormal growth patterns, and for Medicaid eligible pregnant women who have a handicapping malocclusion as a result of a recent accident or disease, of such severity that they are unable to masticate, digest, or benefit from their diet.

(2) Orthodontia services are authorized by 42 CFR 440.100(a), 440.225, 441.56(b)(2), 441.57, October, 1997 ed, which are adopted and incorporated by reference.

**R414-51-2. Definitions.**

In addition to the definitions in R414-1, the following definitions also apply to this rule:

- (1) "Adult" means an individual who is 21 years of age or older[;].
- (2) "Child" means an individual who is under 21 years of age[;].
- (3) "Salzmann's Index" means the "Handicapping Malocclusion Assessment Record" by J. A. Salzmann, used for assessment of handicapping malocclusion, as adopted by the Board of Directors of the American Association of Orthodontists and the Council on Dental Health of the American Dental Association. This index provides a universal numerical measurement of the total malocclusion.

**R414-51-3. Client Eligibility Requirements.**

Orthodontia services are available only to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

**R414-51-4. Program Access Requirements.**

(1) Orthodontia services are available to children who meet the requirements of having a handicapping malocclusion identified in an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) exam.

(2) The Department shall determine [the] medical necessity for orthodontia services [for each individual whether a child or a pregnant woman] based upon:

- (a) [the] evaluation of the malocclusion using the Salzmann's Index from models of the teeth submitted by the dentist or orthodontist; and
- (b) evidence of medical necessity provided by the primary dentist, [the] orthodontist, or [the] physician.

(3) The primary care physician, or the physician or dentist who completes the EPSDT screening examination, may contribute information pertaining to the medical necessity for services.

(4) Qualified [P] providers[-] include dentists, orthodontists, and oral and maxillofacial surgeons.

~~[----- Dentists, oral and maxillofacial surgeons, and orthodontists may provide any part of the orthodontic services for which they are qualified. ]~~

**R414-51-5. Service Coverage.**

(1) Medicaid considers a Salzmann's Index score of 30 or ~~[more]~~ higher a level of handicapping malocclusion for which orthodontia is a covered service.

- (2) Service coverage includes:
  - (a) a wax bite and study models of the teeth;
  - (b) removal of teeth, or other surgical procedures, if necessary to prepare for an orthodontic appliance;
  - (c) attachment of an orthodontic appliance;
  - (d) adjustments of an appliance; and
  - (e) removal of an appliance[;].

~~[----- Dental surgical procedures which are cosmetic only are not covered services even when proposed in conjunction with orthodontia. ]~~

**R414-51-6. Limitations.**

~~[Orthodontia is not a Medicaid benefit]~~ Medicaid does not cover orthodontia for:

- (1) cosmetic or esthetic reasons;

(2) dental surgical procedures which are cosmetic even when performed in conjunction with orthodontia;

(2) treatment of any temporo-mandibular joint condition or dysfunction; or

(3) conditions in which radiographic evidence of bone loss has been documented.

#### **R414-51-7. Reimbursement.**

(1) Fees for services for which the Department will pay [~~optometrists~~orthodontists] are established from the physician's fees for CPT or CDT codes as described in the State Plan, Attachment 4.19-B[, Section D Physicians. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services].

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

~~[(3) The Department shall pay dentists in rural areas 120 percent of the Medicaid established dental fee. The Department shall pay dentist in urban areas 120 percent of the Medicaid established dental fee who agree in writing to treat 100 Medicaid eligible patients per year.~~

**KEY: Medicaid, dental, orthodontia**

**Date of Enactment or Last Substantive Amendment:** ~~[July 1, 2009]~~2013

**Notice of Continuation:** April 30, 2013

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

## Health, Family Health and Preparedness, Emergency Medical Services **R426-1** General Definitions

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37681

FILED: 06/04/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is in response to the Governor's mandate for rule review and simplification. The new rule consolidates definitions previously found in several sections of the existing rule, and adds definitions that are not found in Title 26, Chapter 8a. The new set of rules begins with Rule R426-1. Older numbering started at Rule R426-2. This is the first of a set of rules to update, and re-number all of the administrative rules in Title R426.

**SUMMARY OF THE RULE OR CHANGE:** This new rule is the first of a complete set of rules with sequential numbering, and reflects updates for all aspects of the Emergency Medical Services Act (Title 26, Chapter 8a) of the Utah Code Annotated. It is added to consolidate current, and new term definitions found in subsequent rules in Title R426. It is a new rule due to the fact that there is not a current effective rule that has the rule number R426-1.

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

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the rule requirements that are imposed by these amendments. This new rule provides definitions of terms for existing rule requirements, and does not add any new costs for the state.

◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the rule requirements that are imposed by these amendments. This new rule provides definitions of terms for existing rule requirements, and does not add any new costs for local governments.

◆ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the rule requirements that are imposed by these amendments. This new rule provides definitions of terms for existing rule requirements, and does not add any new costs for small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the rule requirements that are imposed by these amendments. This new rule provides definitions of terms for existing rule requirements, and does not add any new costs for other persons affected.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated fiscal impact for affected persons because there are no changes in the rule requirements that are imposed by these amendments. This new rule merely consolidates definitions for subsequent sections of Title R426.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no anticipated fiscal impact on businesses because this adds no regulatory burden to providers.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.



## DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-1. General Definitions.**

**R426-1-100. Authority and Purpose.**

This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.

**R426-1-200. General Definitions.**

The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule, in addition:

(1) "Advanced Emergency Medical Technician" or "AEMT" means an individual who has completed an AEMT training program, approved by the Bureau, who is certified by the Department as qualified to render services enumerated in this rule.

(2) "Air Ambulance Personnel" mean the pilot and patient care personnel who are involved in an air medical transport.

(3) "Air Ambulance Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-3 and provides transportation and care of patients by air ambulance.

(4) "Air Ambulance Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.

(5) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-7.

(6) "Certify," "Certification," and "Certified" mean the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which he is certified.

(7) "Competitive Grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.

(8) "Continuing Medical Education" means Department-approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

(9) "County or Multi-County EMS Council or Committee" means a group of persons recognized as the legitimate entity within the county to formulate policy regarding the provision of EMS.

(10) "Course Coordinator" means an individual who has completed a Department course coordinator course and is certified by

the Department as capable to conduct Department-authorized EMS courses.

(11) "Department" means the Utah Department of Health.

(12) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed a Department approved EMD training program, and is certified by the Department as qualified to render services enumerated in this rule.

(13) "Emergency Medical Dispatch Center" means an agency designated by the Department for the routine acceptance of calls for emergency medical assistance from the public, utilizing a selective medical dispatch system to dispatch licensed ambulance, and paramedic services.

(14) "Emergency Medical Responder" or "EMR" means an individual who has completed a Department approved EMR training program, and is certified by the Department as qualified to render services enumerated in this rule.

(15) "Emergency Medical Technician" or "EMT" means an individual who has completed a Department approved EMT training program and is certified by the Department as qualified to render services enumerated in this rule.

(16) "Emergency Medical Technician Intermediate Advanced" means an individual who has completed a Department approved EMT- IA training program and is certified by the Department as qualified to render services enumerated in this rule.

(17) "Paramedic" means an individual who has completed a Department approved Paramedic training program and is certified by the Department as qualified to render services enumerated in this rule.

(18) "EMS" means Emergency Medical Services.

(19) "EMS Incident" means an instance in which an Emergency Medical Services Provider is requested to provide or potentially provide emergency medical services.

(20) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is certified by the Department as capable to teach EMS personnel.

(21) "EMS stand-by event" means the on-site licensed ambulance, paramedic service, or designated quick response unit at a scheduled event or activity provided by the local 911 exclusive license provider or their designee as referred to in R426-3-400(6).

(22) "Exclusive License" means the sole right to perform the licensed act in a defined geographic service area, and that prohibits the Department of Health from performing the licensed act, and from granting the right to anyone else.

(23) "Grants Review Subcommittee" means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

(24) "Inclusive Trauma System" means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and prehospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

(25) "Individual" means a human being.

(26) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

(27) "Level of Certification" means the official Department recognized step in the certification process in which an individual has attained as an EMS provider.

(28) "Meritorious Complaint" means a complaint against a licensee, designated agency, or certified provider(s) that is made by a patient, a member of the immediate family of a patient, or health care provider, that the Department determines is substantially supported by the facts or a licensee, designated agency, or certified provider(s):

(a) has repeatedly failed to provide service at the level or in the exclusive geographic service area required licensee;

(b) has repeatedly failed to follow operational standards established by the EMS Committee;

(c) has committed an act in the performance of a professional duty that endangered the public or constituted gross negligence; or

(d) has otherwise repeatedly engaged in conduct that is adverse to the public health, safety, morals or welfare, or would adversely affect the public trust in the emergency medical service system.

(29) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(a) "On-line Medical Control" which refers to physician medical direction of prehospital personnel during a medical emergency; and

(b) "Off-line Medical Control" which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

(30) "Medical Director" means a physician certified by the Department to provide off-line medical control.

(31) "Net Income" - The sum of net service revenue, plus other regulated operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

(32) "Paramedic Ground Ambulance" means the provision of advanced life support patient care and transport by paramedic personnel in a licensed ambulance.

(33) "Paramedic Rescue Service" means the provision of advanced life support patient care by paramedic personnel without the ability to transport patients.

(34) "Paramedic Unit" means a vehicle which is properly equipped, maintained and used to transport paramedics to the scene of emergencies to perform paramedic services without the ability to transport patients.

(35) "Paramedic Tactical Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by paramedics who are trained in combat medical response.

(36) "Paramedic Tactical Unit" means a vehicle which is properly equipped, maintained and used to transport paramedics to the scene of traumatic confrontations to provide paramedic tactical services.

(37) "Patient Care Report" means a record of the response by each responding Emergency Medical Services Provider unit to each patient during an EMS Incident.

(38) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26-8a-207, as part of the Emergency Medical Services Grants Program.

(39) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.

(40) "Person" means an individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, agency, or organization of any kind public or private.

(41) "Physician" means a medical doctor licensed to practice medicine in Utah.

(42) "Pilot" means any individual licensed under Federal Aviation Regulations, Part 135.

(43) "Prehospital Care" means medical care given to an ill or injured patient by a designated or licensed EMS provider outside of a hospital setting.

(44) "Primary emergency medical services" means an organization that is the only licensed or designated service in a geographical area.

(45) "Quick Response Unit" means an entity that provides emergency medical services to supplement local ambulance services or provide unique services.

(46) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of prehospital emergency care.

(47) "Scene" means the location of initial contact with the patient.

(48) "Selective Medical Dispatch System" means a department-approved reference system used by a local dispatch agency to dispatch aid to medical emergencies which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.

(49) "Specialized Life Support Air Ambulance Service" means a level of care which requires equipment or specialty patient care by one or more medical personnel in addition to the regularly scheduled air medical team.

(50) "Training Officer" means an individual who has completed a department Training Officer Course and is certified by the Department to be responsible for an EMS provider organization's continuing medical education, recertification records, and testing.

(51) "Transition period" means prescribed range of dates that includes a begin and end date in which EMS providers will change their level of certificate from existing levels of certification to the Department adopted National Traffic and Highway Safety Administration's (NTHSA) National EMS Scope of Practice Model. This model names levels of certification as EMR, EMT, AEMT and Paramedic.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: 2013  
Authorizing, and Implemented or Interpreted Law: 26-8a**

**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-2  
Emergency Medical Services Provider  
Designations, Critical Incident Stress  
Management and Quality Assurance  
Reviews**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 37682

FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is in response to the Governor's mandate for rule review and simplification. The rule changes the sequence of numbering for Title R426, and allows for a new set of rules that begins with Rule R426-1 through Rule R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** The rule adds revised rules for the designation of emergency medical services rescue units and for a state Critical Incident Stress Management program. This rule will replace the current Rule R426-15 which is being repealed. (DAR NOTE: The proposed repeal of Rule R426-15 is under DAR No. 37694 in this issue, July 1, 2013, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the rule requirements that are imposed by this new rule.
- ◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the rule requirements that are imposed by this new rule.
- ◆ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the rule requirements that are imposed by this new rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the rule requirements that are imposed by this new rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated fiscal impact for affected persons because there

are no changes in the rule requirements that are imposed by this new rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There should be minimum impact on businesses as this clarifies any ambiguities in the requirements for provider designations.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at [gdansie@utah.gov](mailto:gdansie@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-2. Emergency Medical Services Provider Designations, Critical Incident Stress Management and Quality Assurance Reviews.**

**R426-2-100. Authority and Purpose.**

(1) This rule establishes: standards for the designation of emergency medical service providers; criteria for critical incident stress management; and process for quality assurance reviews.

(2) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.

**R426-2-200. Designation Types.**

(1) An entity that responds to 911 EMS calls for assistance from the public, but that does not provide ambulance transport or paramedic service, shall obtain a designation from the Department as a quick response unit.

(2) An entity that accepts calls for 911 EMS assistance from the public, and dispatches emergency medical units or field EMS personnel must first obtain a designation from the Department as an emergency medical dispatch center.

(3) A hospital that provides on-line medical control for prehospital emergency medical care must first obtain a designation from the Department as a resource hospital.

**R426-2-300. Service Levels.**

(1) A quick response unit may only operate and perform the skills at the service level at which it is designated. The

Department may issue designations for the following types of service at the given levels: quick response unit;

- (a) emergency medical responder;
  - (b) emergency medical technician; or
  - (c) advanced-emergency medical technician.
- (2) emergency medical dispatch center; and
- (3) resource hospital.

**R426-2-400. Scope of Operations.**

(1) A designated quick response unit may only provide service in its specific geographical service area except as provided by R426-3-800 Aid Agreements.

(2) A designated quick response unit may only provide emergency medical services for its category of designation that corresponds to the certification levels in R426-5.

**R426-2-500. Quick Response Unit Minimum Designation Requirements.**

A person requesting designation must meet the following minimum requirements:

(1) Have vehicle(s), equipment, and supplies that meet the requirements of R426-4-900 to carry out its responsibilities under its designation;

(2) Have location(s) for stationing its vehicle(s), equipment and supplies;

(3) Have a current dispatch agreement with a designated Emergency Medical Dispatch Center.

(4) Have a Department-certified training officer;

(5) Have a current plan of operations, which shall include:

(a) the names, EMS ID Number, and certification level of all personnel;

(b) operational procedures; and

(c) a description of how the designee proposes to interface with other EMS agencies;

(6) Have a current agreement with a Department-certified off-line medical director who will perform the following:

(a) develop and implement patient care standards which include written standing orders and triage, treatment, prehospital protocols, and/or pre-arrival instructions to be given by designated emergency medical dispatch centers;

(b) ensure the qualification of field EMS personnel involved in patient care and dispatch through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending Department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner. The medical director must notify the Department within one business day of the suspension; and

(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers.

(7) Have current treatment protocols approved by the agencies off-line medical director for the designated service level;

(8) Provide the Department with a copy of its certificate of insurance;

(9) Provide the Department with a letter of support from the licensed provider(s) in the geographical service area; and

(10) Not be disqualified for any of the following reasons:

(a) violation of Subsection 26-8a-504; or

(b) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.

**R426-2-600. Emergency Medical Dispatch Center Minimum Designation Requirements.**

An emergency medical dispatch center must:

(1) Have in effect a selective medical dispatch system approved by the off-line medical directors and the Department, which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;

(2) Have a current updated plan of operations, which shall include:

(a) the names, training, and certification of Emergency Medical Dispatch personnel;

(b) operational procedures which at a minimum include

(i) a description of how the designee proposes to communicate with EMS agencies;

(ii) a copy of the disaster and disaster recovery plans.

(3) Have a current agreement with a Department-certified off-line medical director.

(4) Have an ongoing medical call review quality assurance program; and

(5) Provide pre-hospital arrival instructions by a certified Emergency Medical Dispatcher at all times.

**R426-2-700. Resource Hospital Minimum Requirements.**

A resource hospital must meet the following minimum requirements:

(1) be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah.

(2) have the ability to communicate with other EMS providers operating in the area.

(3) provide on-line medical control for all prehospital EMS providers who request assistance for patient care, 24 hours-a-day, seven days a week. A resource hospital must also:

(a) create and abide by written prehospital emergency patient care protocols for use in providing on-line medical control for prehospital EMS providers;

(b) train new staff on the protocols before the new staff is permitted to provide on-line medical control; and annually review with physician and nursing staff

(c) annually provide in-service training on the protocols to all physicians and nurses who provide on-line medical control; and

(d) make the protocols immediately available to staff for reference.

(4) The on-line medical control shall be by direct voice communication with a physician or a registered nurse or physician's assistant licensed in Utah who is in voice contact with a physician.

(5) A resource hospital must establish and actively implement a quality improvement process. This process will include:

(a) a medical control committee.

(i) the committee must meet at least quarterly to review and evaluate prehospital emergency runs, continuing medical education needs, and EMS system administration problems;

(ii) committee members must include an emergency physician representative, hospital nurse representative, hospital administration representative, and ambulance and emergency services representatives; and

(iii) the hospital must keep minutes of the medical control committee's meetings and make them available for Department review.

(b) the hospital must appoint a quality review coordinator for the prehospital quality improvement process.

(c) the hospital must cooperate with the prehospital EMS providers' off-line medical directors in the quality review process, including granting access to hospital medical records of patients served by the particular prehospital EMS provider.

(d) the hospital must assist the Department in evaluating EMS system effectiveness by submitting to the Department, in an electronic format specified by the Department, quarterly data specified by the Department.

**R426-2-710. Stroke Treatment and Stroke Receiving Center Designation Requirements.**

A hospital desiring to be a Stroke Treatment Center (Primary or Comprehensive) must be accredited as such by the Joint Commission on Accreditation of healthcare Organizations (JACHO) or other nationally recognized accrediting body. A hospital desiring to be designated as a Stroke Receiving Center for receiving stroke patients via Emergency Medical Services shall meet the following requirements:

(1) Be licensed as an acute care hospital in Utah.

(2) Have an emergency department staffed by a Registered Nurse at all time.

(3) Require physician response to the emergency department in less than thirty (30) minutes for treatment of stroke patients.

(4) Maintain the ability of physician and nursing staff to utilize a standardized assessment tool for ischemic stroke patients.

(5) Maintain, have readily available and utilize approved thrombolytic medications for treatment of patients meeting criteria for administration of thrombolytic therapy.

(6) Have a standardized acute stroke protocol in place and provide authority of appropriate emergency department staff to implement the protocol when appropriate.

(7) Maintain availability of ancillary equipment and personnel to diagnose and treat acute stroke patients in a timely manner.

(8) Have in place patient transport protocols with designated stroke treatment centers.

(9) Have an active and functioning performance improvement program for acute stroke care and report required data to the Utah Department of Health as required by the Department.

(10) Submit to a formal survey by representatives of the Department

(11) Upon successful designation, the Department may, in consultation with off line EMS medical direction and protocol, recommend direct transport of stroke patients to a Stroke Receiving Center or a Stroke Treatment Center by an EMS agency.

**R426-2-720. Percutaneous Coronary Intervention (PCI) Center Requirements.**

A hospital desiring to be designated as a Percutaneous Coronary Intervention (PCI) Center for the purpose of receiving acute ST-elevation myocardial infarction (STEMI) patients via EMS shall meet to following requirements:

(1) Be licensed as an acute care hospital in Utah.

(2) Have an emergency department staffed by at least one (1) Physician and one (1) Registered Nurse at all times.

(3) Have the ability to receive 12 lead EKG data from EMS agencies transporting patients to the hospital for treatment of ST Segment Elevation Myocardial Infarction (STEMI).

(4) Have and maintain the ability to provide cardiac catheterization and PCI of STEMI patients within ninety (90) minutes of patient arrival in the emergency department 24/7.

(5) Have an active and functioning performance improvement program for STEMI care and report required data to the Utah Department of Health as required by the Department.

(6) Submit to a forma survey by representatives of the Department.

(7) Upon successful designation, the Department may, in consultation with offline EMS medical direction and protocol, recommend direct transport of STEMI patients to a STEMI Treatment Center by an EMS agency.

**R426-2-800. Designation Application.**

An entity desiring a designation or a renewal of its designation shall submit:

(a) applicable fees and an application on Department-approved forms to the Department.

(b) documentation that it meets the minimum requirements for the designation listed in this rule.

(c) other information the Department determines to be necessary for processing the application and oversight of the designated entity and the following:

(2) Quick Response Unit;

(a) identifying information about the entity and its principals, if a resource hospital the name of the hospital;

(b) the name of the person or governmental entity financially and otherwise responsible for the service provided by the designee and documentation from that entity accepting the responsibility;

(c) identifying information about the entity that will provide the service and its principals;

(d) if the applicant is not a governmental entity, a statement of type of entity and certified copies of the documents creating the entity;

(e) a description of the geographical area that it will serve; and

\_\_\_\_\_ (f) demonstrate a need for said service.  
\_\_\_\_\_ (3) Emergency Medical Dispatch Center:  
\_\_\_\_\_ (a) documentation of the on-going medical call review and quality assurance program; and  
\_\_\_\_\_ (b) documentation of any modifications to the medical dispatch protocols.  
\_\_\_\_\_ (4) Resource Hospital:  
\_\_\_\_\_ (a) the hospital's address;  
\_\_\_\_\_ (b) the name and phone number of the individual who supervises the hospital's responsibilities as a designated resource hospital.

**R426-2-810. Stroke Designation Application.**

\_\_\_\_\_ A hospital desiring to be designated as a Stroke Receiving Center shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall provide:

\_\_\_\_\_ (1) The name of the hospital to be designated.  
\_\_\_\_\_ (2) The hospital address  
\_\_\_\_\_ (3) The name and phone number of the person responsible for supervision of the hospital's stroke care.  
\_\_\_\_\_ (4) Other information that the department deems necessary for processing of the application and oversight of the designated entity.  
\_\_\_\_\_ (5) Hospitals desiring designation must be verified by hosting a site visit by the Department.  
\_\_\_\_\_ (6) The Department and its consultants may conduct observation, review and monitor activities with any designated stroke center to verify ongoing compliance with designation requirements.  
\_\_\_\_\_ (7) Submit performance improvement data to the Department as required.

**R426-2-820. Percutaneous Coronary Intervention (PCI) Center Application.**

\_\_\_\_\_ A hospital desiring to be designated as a ST Segment Elevation Myocardial Infarction (STEMI) Treatment Center shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall provide:

\_\_\_\_\_ (1) The name of the hospital to be designated.  
\_\_\_\_\_ (2) The hospital address  
\_\_\_\_\_ (3) The name and phone number of the person responsible for supervision of the hospital's STEMI care.  
\_\_\_\_\_ (4) Other information that the department deems necessary for processing of the application and oversight of the designated entity.  
\_\_\_\_\_ (5) Hospitals desiring designation must be verified by hosting a site visit by the Department.  
\_\_\_\_\_ (6) The Department and its consultants may conduct observation, review and monitor activities with any designated stroke center to verify ongoing compliance with designation requirements.  
\_\_\_\_\_ (7) Submit performance improvement data to the Department as required.

**R426-2-900. Criteria for Denial or Revocation of Designation.**

\_\_\_\_\_ (1) The Department may deny an application for a designation for any of the following reasons:

\_\_\_\_\_ (a) failure to meet requirements as specified in the rules governing the service;  
\_\_\_\_\_ (b) failure to meet vehicle, equipment, or staffing requirements;  
\_\_\_\_\_ (c) failure to meet requirements for renewal or upgrade;  
\_\_\_\_\_ (d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-8a-502 and 26-8a-504;  
\_\_\_\_\_ (e) failure to meet agreements covering training standards or testing standards;  
\_\_\_\_\_ (f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;  
\_\_\_\_\_ (g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;  
\_\_\_\_\_ (h) falsifying or misrepresenting any information required for licensure or designation or by the application for either:  
\_\_\_\_\_ (i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;  
\_\_\_\_\_ (j) failure to submit records and other data to the Department as required by statute or rule;  
\_\_\_\_\_ (k) misuse of grant funds received under Section 26-8a-207; and  
\_\_\_\_\_ (1) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.  
\_\_\_\_\_ (2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within thirty calendar days of the issuance of the Department's denial.

**R426-2-1000. Application Review and Award.**

\_\_\_\_\_ (1) If the Department finds that an application for designation is complete and that the applicant meets all requirements, it may approve the designation.  
\_\_\_\_\_ (2) Issuance of a designation by the Department is contingent upon the applicant's demonstration of compliance with all applicable rules and a successful Department quality assurance review.  
\_\_\_\_\_ (3) A designation may be issued for up to a four-year period. The Department may alter the length of the designation to standardize renewal cycles.

**R426-2-1100. Change in Designated Service Level.**

\_\_\_\_\_ (1) A quick response unit may apply to provide a higher designated level of service by:  
\_\_\_\_\_ (a) submitting the applicable fees; and  
\_\_\_\_\_ (b) submitting an application on Department-approved forms to the Department.  
\_\_\_\_\_ (2) As part of the application, the applicant shall provide:  
\_\_\_\_\_ (a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;  
\_\_\_\_\_ (b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service;  
\_\_\_\_\_ (c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director; and  
\_\_\_\_\_ (d) provide the Department with a letter of support from the licensed provider(s) in the geographical service area.

(3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.

**R426-2-1200. Critical Incident Stress Management.**

(1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities under Utah Code Section 26-8a-206.

(2) The CISM team may conduct stress debriefings and defusings upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.

(3) Individuals who serve on the CISM team must complete initial and ongoing training.

(4) While serving as a CISM team member, the individual is acting on behalf of the Department. All records collected by the CISM team are Department records. CISM team members shall maintain all information in strict confidence as provided in Utah Code Title 26, Chapter 3.

(5) The Department may reimburse a CISM team member for mileage expenses incurred in performing his or her duties in accordance with state finance mileage reimbursement policy.

**R426-2-1300. Quality Assurance Reviews.**

(1) The Department may conduct quality assurance reviews of licensed and designated organizations and training programs on an annual basis or more frequently as necessary to enforce this rule;

(2) The Department shall conduct a quality assurance review prior to issuing a new license or designation.

(3) The Department may conduct quality assurance reviews on all personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials and all other attributes or characteristics of the organization, which may include audits, surveys, and other activities as necessary for the enforcement of the Emergency Medical Services System Act and the rules promulgated pursuant to it.

(a) The Department shall record its findings and provide the organization with a copy.

(b) The organization must correct all deficiencies within 30 days of receipt of the Department's findings.

(c) The organization shall immediately notify the Department on a Department-approved form when the deficiencies have been corrected.

**R426-2-1400. Penalties.**

As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6 and/or revocation of designation.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: 2013**

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

**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-3  
Licensure**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 37683

FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This new rule is in response to the Governor's mandate for rule review and simplification. This proposed new rule is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** The new rule includes all of the requirements for ambulance service licensure. It incorporates rules currently found in Rules R426-2 and R426-15 that specify licensure requirements. Rule R426-2 rules pertaining to air ambulance will be allowed to be expired and Rule R426-15 is being repealed. Licensure requirements have been modified to reflect current improvements and changes as directed by the EMS Rules Task Force and EMS Committee. (DAR NOTE: The proposed new Rule R426-2 is under DAR No. 37682, and the proposed repeal of Rule R426-15 is under DAR No. 37694 in this issue, July 1, 2013, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this new rule.
- ◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this new rule.
- ◆ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this new rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this new rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this new rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be minimum impact on businesses as this clarifies any ambiguities in the requirements for provider designations.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-3. Licensure.**

**R426-3-100. Authority and Purpose.**

(1) This Rule is established under Chapter 8, Title 26a, Chapter 8a. It establishes standards for the licensure of an air ambulance, ground ambulance, and paramedic services.

(2) The purpose of this rule is to set forth air and ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee, which promotes and protects the health and safety of the people of this state.

(3) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.

**R426-3-200. Requirement for Licensure.**

A person or entity that provides or represents that it provides air ambulance, ground ambulance, paramedic ground ambulance, or paramedic services must first be licensed by the Department.

**R426-3-300. Licensure Types.**

(1) The Department may issue exclusive ground ambulance transport licenses for the following types of service at the given levels:

(a) emergency medical technician (EMT);

(b) advanced emergency medical technician (AEMT);  
and

(c) paramedic

(d) current emergency medical technician intermediate advanced (EMT-IA) licenses will remain in effect, no new EMT-IA licenses will be issued.

(2) The Department may issue exclusive ground ambulance inter-facility transport licenses for the following types of service at the given levels:

(a) emergency medical technician (EMT);

(b) advanced emergency medical technician (AEMT);  
and

(c) paramedic.

(3) The Department may issue exclusive paramedic, non-transport licenses for the following types of service at the given response configurations:

(a) paramedic; and

(b) paramedic tactical

(4) The Department may issue Air Ambulance licenses for the following types of services at the given levels:

(a) advanced life support;

(b) specialized life support;

(5) The Department may issue Air Ambulance licenses for the following types of specialties for which the specialized Life support Air Ambulance Service is licensed.

(a) specialty obstetrics;

(b) specialty pediatrics;

(c) specialty neonatal;

(d) specialty burns; and

(e) specialty cardiac.

**R426-3-400. Scope of Operations.**

(1) A licensee may only provide service to its specific licensed geographic service area and is responsible to provide service to its entire specific geographic service area except as provided by R426-3-800 Aid Agreements. It will provide emergency medical services for its category of licensure that corresponds to the certification levels in R426-5 Emergency Medical Services Training and Certification Standards.

(2) A licensee may not subcontract. A subcontract is present if a licensee engages a person that is not licensed to provide emergency medical services to all or part of its specific geographic service area. A subcontract is not present if multiple licensees allocate responsibility to provide ambulance services between them within a specific geographic service area for which they are licensed to provide ambulance service.

(3) A ground ambulance inter-facility transfer licensee may only transport patients from a hospital, nursing facility, emergency patient receiving facility, mental health facility, or other licensed medical facility when arranged by the transferring physician for the particular patient.

(4) A person or entity may not furnish, operate, conduct, maintain, advertise, or provide ground or air ambulance transport services to patients within the state or from within the state to out of state unless licensed by the Department.

(5) All licensed Emergency Medical Services conforming to R426-3-200 must provide services 24 hours a day, every day of the year. Air Medical services must provide air medical services 24 hours a day, every day of the year as allowed by weather conditions.



(6) A ground ambulance or paramedic licensee must provide all ambulance or paramedic services, including standby services, for any special event that requires ground ambulance or paramedic services within its geographic service area.

**R426-3-500. Minimum Licensure Requirements Air Ambulance, Ground Ambulance, and Paramedic Services.**

A licensee conforming to R426-3-200 must meet the following minimum requirements:

(1) have sufficient air or ground ambulances, emergency response vehicle(s), equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensees.

(2) have locations or staging areas for stationing its vehicles.

(3) have a current written dispatch agreement with a designated emergency medical dispatch center.

(4) have current written aid agreements with other licensees to give assistance in times of unusual demand.

(5) have a Department certified EMS training officer that is responsible for continuing education.

(6) have a current plan of operations, which shall include:

(a) a business plan demonstrating:

(i) ability to provide the service; and

(ii) fiscal plan.

(b) a roster of medical personnel which includes level of certification or licensure to ensure there is sufficient trained and certified staff that meets the requirements of R426-4-200 Staffing, and

(c) operational procedures.

(7) a description of how the licensee or applicant proposes to interface with other EMS agencies.

(8) all permitted vehicles shall be equipped to allow field EMS personnel to be able to:

(a) communicate with hospital emergency departments, dispatch centers, EMS providers, and law enforcement services; and

(b) communicate on radio frequencies assigned to the Department for EMS use by the Federal Communications Commission.

(9) have a current written agreement with a Department-certified off-line medical director or a medical director certified in the state where the service is based pursuant to R426-3-700.

(10) provide the Department with a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle or air ambulance in the manner and following minimum amounts:

(a) have liability insurance in the amount of \$300,000 for each individual claim and \$500,000 for total claims for personal injury from any one occurrence; and

(b) liability insurance in the amount of \$100,000 for property damage from any one occurrence.

(c) the licensee shall obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:

(i) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section; and

(ii) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage within 60 days.

(11) not be disqualified for any of the following reasons:

(a) violation of Subsection 26-8a-504; or

(b) disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state that adversely affect its service under its license.

(12) A paramedic tactical service must be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical service's geographic service area.

**R426-3-600. Application.**

(1) An applicant desiring to be licensed or to renew its license for an air ambulance, ground ambulance, and paramedic services shall submit the applicable fees and application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-3-500 and the following:

(a) for an application for new service:

(i) a detailed description and detailed map of the exclusive geographical areas that will be served;

(ii) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;

(iii) if an applicant is responding to a public bid as described in 26-8a-405.2 the applicant shall include detailed maps and descriptions for all geographical areas served in accordance with 26-8a-405.2(2).

(iv) documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;

(v) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;

(b) for renewal applications:

(i) a written assessment of field performance from the applicant's off-line medical director; and

(ii) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.

(2) In addition to the above, an applicant for air ambulance services must submit the following:

(a) certified articles of incorporation, if incorporated;

(b) a statement summarizing the training and experience of the applicant in the air transportation and care of patients;

(c) a copy of current Federal Aviation Administration (FAA) Air Carrier Operating Certificate authorizing FAR, Part 135, operations;

(d) a copy of the current certificates of insurance demonstrating coverage for medical malpractice;

(e) a statement detailing the level of care for which the air ambulance service wishes to be licensed, either advanced or specialized;

(f) air ambulance services must have an agreement to allow hospital emergency department physicians, nurses, and other personnel who participate in emergency medical services to fly on air ambulances;

(g) air ambulance service shall submit a description and location of each dedicated and back-up air ambulance(s) procured

for use in the Air ambulance service, including the make, model, and year of manufacture, FAA-N number, insignia, name or monogram, or other distinguishing characteristics; and

(h) successful completion of a Department approved accreditation process; and

(i) for new air ambulance services licensed under R426-3-200 they must submit an application for accreditation by a Department approved accreditation process within one year of receiving a license under this rule; and

(j) air ambulance services licensed under R426-3-200 must achieve accreditation and maintain accreditation.

(3) A ground ambulance or paramedic service holding a license under 26-8a-404, including any political subdivision that is part of special district may respond to a request for proposal if it complies with 26-8a-405(2).

#### **R426-3-700. Medical Control.**

(1) All licensees must enter into a written agreement with a physician to serve as its off-line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician must be familiar with:

(a) the design and operation of the local prehospital EMS system; and

(b) local dispatch and communication systems and procedures.

(2) The off-line medical director shall:

(a) develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols;

(b) ensure the qualification of field EMS personnel involved in patient care through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending Department review, a field EMS personnel who does not comply with local medical triage, treatment and transport protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner. The medical director must notify the Department within one business day of the suspension.

(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers.

(g) licensed agencies shall notify the Department if an off-line medical director is replaced, within thirty days after the action.

(h) have current treatment protocols approved by the agency's off-line medical director for the existing service level for renewal or new treatment protocols if seeking an application.

(3) It is the responsibility of the air ambulance medical director to:

(a) authorize written protocols for the use by air medical attendants and review policies and procedures of the Air ambulance service.

(b) develop and review treatment protocols, assess field performance, and critique at least 10% of the Air ambulance service runs.

#### **R426-3-800. Aid Agreements.**

(1) All licensed ground ambulance provider shall have/maintain aid agreement(s) with other ground ambulance provider(s) to call upon them for assistance during times of unusual demand or standby events.

(2) Aid agreements shall be in writing, signed by both parties, and detail the:

(a) purpose of the agreement;

(b) type of assistance required;

(c) circumstances under which the assistance would be given; and

(d) duration of the agreement.

(3) The parties shall provide a copy of the aid agreement to the emergency medical dispatch centers that dispatch the licensees.

(4) If the ground ambulance licensee is unable or unwilling to provide ambulance standby service or special event coverage, the licensee shall allow a ground ambulance licensee through the use of aid agreements to provide all ground ambulance service for the standby or special event.

#### **R426-3-900. Selection of a Provider by Public Bid.**

(1) A political subdivision that desires to select a provider through a public bid process as provided in 26-8a-405.1, shall submit its draft request for proposal to the Department in accordance with 26-8a-405.2(2), together with a cover letter listing all contact information. The proposal shall include all the criteria listed in 26-8a-405.1 and 405.2.

(2) The Department shall, within 14 business days of receipt of a request for proposal from a political subdivision, review the request according to 26-8a-405.2(2); and

(a) approve the proposal by sending a letter of approval to the political subdivision;

(b) require the political subdivision to alter the request for proposal to meet statutory and rule requirements; or

(c) deny the proposal by sending a letter detailing the reasons for the denial and process for appeal.

#### **R426-3-1000. Application Review and Award.**

(1) Upon receipt of an appropriately completed application, for Air ambulance service, ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.

(2) After review and before issuing a license to a new service the Department shall directly inspect the air or ground vehicle(s), equipment, and required documentation.

(3) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

(a) for a new license application, issue a notice of approved application as required by 26-8a-405 and 406;

(b) issue a renewal license to an applicant in accordance with 26-8a-413(1) and (2) or 26-8a-405.1(3), whichever is applicable.

(c) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision certified to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through 26-8a-313(3); or

(d) issue a second four-year renewal license to a licensee selected by a political subdivision if:

(i) the political subdivision certified to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a(1) through (3); and

(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.

(4) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review.

(5) A license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.

(6) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.

**R426-3-1100. Criteria for Denial or Revocation of Licensure.**

(1) The Department may deny an application for a license, a renewal of a license, or revoke, suspend or restrict a license without reviewing whether a license must be granted or renewed to meet public convenience and necessity for any of the following reasons:

(a) failure to meet substantial requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, staffing, or insurance requirements;

(c) failure to meet agreements covering training standards or testing standards;

(d) substantial violation of Subsection 26-8a-504(1);

(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(f) a history of serious or substantial public complaints;

(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsification or misrepresentation of any information in the application or related documents;

(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;

(j) financial insolvency;

(k) failure to submit records and other data to the Department as required by R426-7;

(l) a history of inappropriate billing practices, such as:

(i) charging a rate that exceeds the maximum rate allowed by rule;

(ii) charging for items or services for which a charge is not allowed by statute or rule; or

(iii) Medicare or Medicaid fraud.

(m) misuse of grant funds received under Section 26-8a-207; or

(n) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) An applicant or licensee that has been denied, revoked, suspended or issued a restricted license may appeal by filing a written appeal within thirty calendar days of the receipt of the issuance of the Department's denial.

**R426-3-1200. Change in Non-911 Service Level.**

(1) A ground ambulance service licensee may apply to provide a higher level of non-911 ambulance service as referred to under 26-8a-102(14). The applicant shall submit:

(a) the applicable fees;

(b) an application on Department-approved forms to the Department.

(c) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(d) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service; and

(e) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director.

(2) If the Department determines that the applicant has demonstrated the ability to provide the higher level of service, it shall issue a revised license reflecting the higher level of service without making a separate finding of public convenience and necessity.

**R426-3-1300. Change of Owner.**

A license and the vehicle permits terminate if the holder of a licensed service transfers ownership of the service to another party. As outlined in 26-8a-415, the new owner must submit, within ten business days of acquisition, applications and fees for a new license and vehicle permits.

**R426-3-1400. Penalties.**

As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6 and/or suspension or revocation of license(s).

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: 2013**

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

Health, Family Health and  
Preparedness, Emergency Medical  
Services  
**R426-4**  
Operations

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 37684

FILED: 06/04/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE  
CHANGE: This new rule is in response to the Governor's

mandate for rule review and simplification. This proposed new rule is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** The new rule includes all of the requirements for emergency medical service operations and response. It incorporates rules currently found in Rules R426-2, R426-11, R426-14, and R426-15 that relate to operational requirements. These current rules pertaining to emergency medical services are being repealed and replaced. Operational requirements have been modified to reflect current improvements, and changes as directed by the EMS Rules Task Force and EMS Committee. Operational rules includes new driver requirements and supply requirements for vehicles. (DAR NOTE: The proposed new Rule R426-2 is under DAR No. 37682, the proposed repeal of Rule R426-11 is under DAR No. 37690, the proposed repeal of Rule R426-14 is under DAR No. 37693, and the proposed repeal of Rule R426-15 is under DAR No. 37694 in this issue, July 1, 2013, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this new rule.

◆ **LOCAL GOVERNMENTS:** Slight fiscal impact for local governments because changes made to the drug and equipment list include the use of optional items at the discretion of the provider. Newly required supraglottic airway devices and commercial tourniquets may add small costs to current ambulance requirements, however, savings in deletion of previously required items should off-set or reduce the fiscal impact.

◆ **SMALL BUSINESSES:** Slight fiscal impact for small businesses. Several changes made to the drug and equipment list include the use of optional items at the discretion of the provider. Newly required supraglottic airway devices and commercial tourniquets may add small costs to current ambulance requirements, however, savings in deletion of previously required items should off-set or reduce the fiscal impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Slight fiscal impact for small businesses. Several changes made to the drug and equipment list include the use of optional items at the discretion of the provider. Newly required supraglottic airway devices and commercial tourniquets may add small costs to current ambulance requirements, however, savings in deletion of previously required items should off-set or reduce the fiscal impact.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs for affected regulated providers will include the purchase of the newly required supraglottic airway devices and commercial tourniquets for permitted vehicles.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This will have a slight fiscal impact on business as they will need to purchase some new equipment to carry on the permitted vehicles.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON:** 08/07/2013

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

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-4. Operations.**

**R426-4-100. Authority and Purpose.**

(1) This rule is established under Title 26, Chapter 8a. It establishes standards for the operation of EMS providers licensed or designated under the provisions of the Emergency Medical Services System Act.

(2) The purpose of this rule is to set forth air and ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee, which promotes and protects the health and safety of the people of this state.

(3) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.

**R426-4-200. Staffing.**

(1) Quick response units shall be staffed by at least one provider certified at or above their designated level of service.

(2) Ground ambulance or Paramedic services shall have the following minimum complement of personnel:

(a) Basic Life Support ambulance services staffing shall be at least two certified EMTs, AEMTs, EMT-IA, or paramedics or any combination thereof.

(b) AEMT ambulance services staffing shall be at least one certified EMS Professional at the level of their service and one more certified provider at EMT level or higher.

(c) EMT-IA ambulance services staffing shall be at least one certified EMS Professional at the level of their service and one more certified provider at EMT level or higher.

(d) Paramedic ambulance services staffing shall be at least one paramedic and one EMT, AEMT, EMT-IA, or paramedic.

(e) Paramedic (non-transport) services staffing shall be at least one paramedic.

(f) Paramedic inter-facility services staffing shall be one paramedic and at least one EMT, AEMT, or paramedic.

(3) Licensed paramedic ambulance or paramedic services shall deploy two paramedics to the scene of 911 calls for service requiring ALS response, unless otherwise determined by local selective medical dispatch system protocols.

(4) Air ambulance services providing advanced life support must have at least one medical attendant who is a Paramedic, PA, RN, or MD/DO. This attendant shall be the primary medical attendant. The second medical attendant shall be a Paramedic, PA, Respiratory Therapist, RN, or MD/DO.

(5) Air ambulance services providing specialized life support must have at least one medical attendant who is an RN or MD. This attendant shall be the primary medical attendant. The second medical attendant shall be a Paramedic, PA, RT, RN, or MD/DO.

(6) When providing care, responders not in an agency approved uniform shall display their level of medical certification.

(7) Each designated or licensed agency shall maintain a personnel file for each certified individual. The personnel file must include records documenting the individual's qualifications, training, certification, immunizations, and continuing medical education.

(8) A provider may only perform to the service level of the licensed or designated service, regardless of the certification level of the provider.

#### **R426-4-300. Permits and Inspections.**

(1) The Department requires an annual inspection on all air and ground licensed vehicles, quick response designated vehicles, and emergency medical dispatch centers to assure compliance.

(a) Ambulance vehicles must meet Federal General Services Administration Specification for ground ambulances as of the date of manufacture and new vehicles must meet current state approved specifications for ground ambulances.

(b) All vehicles must pass an inspection of the equipment and vehicle supply requirements pursuant to R426-4-900 Ground Ambulance Vehicle Supply Requirements or R426-4-1000 Air Ambulance Supply Requirements.

(2) After successful completion of an inspection, the Department shall issue a permit for a period of one year from the date of issue and shall remain valid for that period, unless revoked or suspended by the Department.

(3) All air or ground ambulance, licensed and designated providers must annually obtain a permit from the Department to operate in Utah. The current permit decal shall be displayed in a visible location on the vehicle. Showing the permit expiration date and permit number issued by the Department prominent on a publicly visible place on the vehicle as evidence of compliance.

(4) Air Ambulance permit holder shall meet all Federal Aviation Regulations specific to the operations of the air medical service.

(5) The Department shall issue annual permits for vehicles used by licensees only if the new or replacement ambulance meets the requirements listed in R426-4-900.

(6) The Department may give consideration for a waiver from the requirements of R426-4-900 to communities with limited populations or unique problems for purchase and use of ambulance vehicles.

(7) Permits and decals are not transferable to other vehicles.

#### **R426-4-400. Vehicle Operations.**

(1) Licensees shall notify the Department of the permanent location or where of the vehicles will be staged if using staging areas. The licensee shall notify the Department in writing whenever it changes the permanent location for each vehicle.

(2) Vehicles shall be maintained on a premise suitable to make it available for immediate use, in good mechanical repair, properly equipped, and in a sanitary condition.

(3) Each ambulance shall be maintained in a clean condition with the interior being thoroughly cleaned after each use in accordance with OSHA standards the agency's exposure control plan.

(4) Each ambulance shall be equipped with adult and child safety restraints and to the point practicable when feasible all occupants must be restrained.

(5) An air medical service ambulance shall comply with all state and federal requirements governing the specific vehicles utilized for air medical transport services.

(6) Each licensee is responsible for assuring that its vehicles are driven by only trained, experienced, and otherwise qualified personnel. The licensee must, at a minimum document that each of its drivers:

(a) Is at least 18 years of age;

(b) possesses a valid driver's license

(c) is trained in the safe operation of emergency vehicles, has completed an approved emergency vehicle operator's course;

(d) and possesses a valid cardiopulmonary resuscitation card.

(7) Personnel who do not hold a currently approved emergency medical technician certification are subject to:

(a) Application;

(b) Bureau of Criminal Investigations background check;

(c) and registration with the Department

(d) Upon successful completion of required items the Department shall issue a driver only registration card.

(8) The Department shall annually inspect licensees for verification of compliance with this section. Services that are unable to verify compliance are subject to disciplinary action Subsection 63G-3-201(5) and Section 26-23-6.

#### **R426-4-500. Complaint Process.**

(1) All complaints must be written and have complainant's contact information. Complaints will follow Department's Policy and will be investigated by the appropriate Department's staff.

(2) The Department will conduct an interview with the provider regarding the substance of the complaint and allow the provider a reasonable opportunity to respond to the allegations of the complaint.

(3) If the complaint is not deemed meritorious, the provider shall receive written notification from the Department that the complaint is unsubstantiated.

(4) A complaint deemed meritorious against the provider will require the Department to inform the provider in writing within 30 days:

(a) upon receipt of the written notification the provider will submit a corrective action plan within 45 days to the Department for approval. Extensions will be at the discretion of the Department;

(b) if the corrective action plan is determined to be inadequate by the Department, the Department will make recommendations for an agreeable corrective action plan; and

(c) for non-911 providers, the relevant political subdivision will be notified of the complaint and if applicable may issue a Request for Proposal according to 26-8a-405.4(3)(a)(ii)(B)(II).

#### **R426-4-600. Scene and Patient Management.**

(1) Upon arrival at the scene of a medical call injury or illness, the field EMS personnel shall establish radio or telephone contact with on-line medical control, as specified by agency protocol.

(2) If radio or telephone contact cannot be obtained, the field EMS personnel shall so indicate on the EMS report form and follow local written protocol;

(3) if there is a licensed physician at the scene who wishes to assist or provide on-scene medical direction to the field EMS personnel, the field EMS personnel may follow his/her instructions, but only until communications are established with on-line medical control. If the proposed treatment from the on-scene physician differs from existing EMS triage, treatment, and transport protocols and is contradictory to quality patient care, the field EMS personnel should revert to existing EMS triage, treatment, and transport protocols for the continued management of the patient.

(a) If the physician at the scene wishes to continue directing the field EMS personnel's activities, the field EMS personnel shall so notify on-line medical control;

(b) the on-line medical control may:

(i) allow the on-scene physician to assume or continue medical control;

(ii) assume medical control, but allowing the physician at the scene to assist; or

(iii) assume medical control with no participation by the on-scene physician.

(c) If on-line medical control allows the on-scene physician to assume or continue medical control, the field EMS personnel shall repeat the on-scene physician's orders to the on-line medical control for evaluation and recording. If, in the judgment of the on-line medical control that is monitoring and evaluating the at-scene medical control, the care is inappropriate to the nature of the medical emergency, the on-line medical control may reassume medical control of the field EMS personnel at the scene.

(4) A paramedic tactical rescue may only function at the invitation of the local or state public safety authority. When called

upon for assistance, it must immediately notify the local ground ambulance licensee to coordinate patient transportation.

#### **R426-4-700. Pilot Projects.**

(1) A person who proposes to undertake a research or study project which requires waiver of any rule must have a project director who is a physician licensed to practice medicine in Utah, and must submit a written proposal to the Department for presentation to the EMS Committee for recommendation.

(2) The proposal shall include the following:

(a) A project description that describes the:

(i) need for project;

(ii) project goal;

(iii) specific objectives;

(iv) approval by the agency off-line medical director;

(v) methodology for the project implementation;

(vi) geographical area involved by the proposed project;

(vii) specific rule or portion of rule to be waived;

(viii) proposed waiver language; and

(ix) evaluation methodology.

(b) A list of the EMS providers and hospitals participating in the project;

(c) a signed statement of endorsement from the participating hospital medical directors and administrators, the director of each participating paramedic and ambulance licensee, other project participants, and other parties who may be significantly affected.

(d) If the pilot project requires the use of additional skills, a description of the skills to be utilized by the field EMS personnel and provision for training and supervising the field EMS personnel who are to utilize these skills, including the names of the field EMS personnel.

(e) The name and signature of the project director attesting to his support and approval of the project proposal.

(3) If the pilot project involves human subjects' research, the applicant must also obtain Department Institutional Review Board approval.

(4) The Department or Committee, as appropriate, may require the applicant to meet additional conditions as it considers necessary or helpful to the success of the project, integrity of the EMS system, and safety to the public.

(5) The Department or Committee, as appropriate, may initially grant project approval for one year. The Department or Committee, as appropriate, may grant approval for continuation beyond the initial year based on the achievement and satisfactory progress as evidenced in written progress reports to be submitted to the Department at least 90 days prior to the end of the approved period. A pilot project may not exceed three years;

(6) the Department or Committee, as appropriate, may only waive a rule if:

(a) the applicant has met the requirements of this section;

(b) the waiver is not inconsistent with statutory requirements;

(c) there is not already another pilot project being conducted on the same subject; and

(d) it finds that the pilot project has the potential to improve pre-hospital medical care.

(7) Approval of a project allows the field EMS personnel listed in the proposal to exercise the specified skills of the

participants in the project. The project director shall submit the names of field EMS personnel not initially approved to the Department.

(8) The Department or Committee, as appropriate, may rescind approval for the project at any time if:

(a) Those implementing the project fail to follow the protocols and conditions outlined for the project;

(b) it determines that the waiver is detrimental to public health; or

(c) it determines that the project's risks outweigh the benefits that have been achieved.

(9) The Department or Committee, as appropriate, shall allow the EMS provider involved in the study to appear before the Department or Committee, as appropriate, to explain and express its views before determining to rescind the waiver for the project.

(10) At least six months prior to the planned completion of the project, the medical director shall submit to the Department a report with the preliminary findings of the project and any recommendations for change in the project requirements.

**R426-4-800. Confidentiality of Patient Information.**

Licensees, designees, and EMS certified individuals shall not disclose patient information except as necessary for patient care or as allowed by statute or rule.

**R426-4-900. Vehicle Supply Requirements.**

(1) In accordance with the licensure or designation type and level, the ambulance shall carry on each permitted vehicle the minimum quantities of supplies, medications, and equipment as described in this subsection. Optional items are marked with an asterisk.

(a) For any medication used (whether required or optional) it is the responsibility of the Medical Director to provide the protocols, training, and quality assurance for each crew member.

(b) American Heart Association (AHA) regularly updates the guidelines for acute cardiac care. As a result, certain equipment or medications may be recommended by the most current AHA guidelines that are not included in this rule. Agency medical directors may authorize the use of these new medications or equipment in accordance with such revised AHA guidelines. Waivers for such medications/equipment will not be required, however agencies shall report to the Bureau the use of any AHA recommended medications/equipment not specifically mentioned in this rule.

(c) In times of drug shortages, the Department, in consultation with the State EMS Medical Director, may approve alternative medications as requested, or approve use of medications less than 6 months beyond their expiration date.

(2) Equipment and Supplies:

(a) EMR Quick Response Unit

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Heavy duty shears

2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

2 Triangular bandages

1 Box of gloves latex free or equivalent

1 Thermometer

1 Biohazard bag

1 Obstetrical kit (includes cord clamp, scissors, scalpel, bulb syringe, drapes, towels, gloves, feminine napkin, biohazard bags)

1 Printed pediatric reference material

1 Commercial tourniquet

Disinfecting agent for cleaning vehicle and equipment of body fluids in accordance with OSHA standards of bleach diluted between 1:10 and 1:100 with water or equivalent

Reflective safety vests one for each crew member OSHA approved

Preventive T.B. Transmission masks (N95 or N100) masks, one for each crew member

Protective eye wear (goggle or face shield), one for each crew member

Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

Airway Equipment and Supplies:

2 Bag valve mask ventilation units, one adult, one pediatric

1 Portable oxygen apparatus, capable of metered flow with adequate tubing\*

2 O2 masks, non-rebreather or partial non-rebreather, one adult and one pediatric\*

1 Nasal cannula, adult\*

Defibrillator Equipment and Supplies

1 Automated External Defibrillator (AED)

Additional Supplies:

1 Irrigation solution 500cc

2 Nerve Antidote Kits (Mark I Kits or DuoDote) for self or peer administration\*

(b) EMT Quick Response Unit

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Heavy duty shears

2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

4 Cervical collars, one adult, one child, one infant, plus one other size

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

1 Thermometer

2 Biohazard bags

1 Printed pediatric reference material

1 Obstetrical kit (includes cord clamp, scissors, scalpel, bulb syringe, drapes, towels, gloves, feminine napkin, Biohazard bags)

1 Commercial tourniquet

Disinfecting agent for cleaning vehicle and equipment of body fluids in accordance with OSHA standards of bleach diluted between 1:10 and 1:100 with water or equivalent

Reflective safety vests one for each crew member OSHA approved

Preventive T.B. Transmission masks (N95 or N100) masks, one for each crew member

Protective eye wear (goggle or face shield), one for each crew member

Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

Hemostatic Gauze or agent\*

Glucose measuring device\*

Transcutaneous carbon monoxide detector\*

Head Immobilization Device\*

Spine board (wood must be coated or sealed) \*

Immobilization straps\*

Multi-use splints\*

Whole body vacuum splint\*

Inflatable back raft\*

Mucosal atomization device\*

Airway Equipment and Supplies:

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

1 Oxygen saturation monitor with adult and pediatric probes

2 Bag valve mask ventilation units, one adult, one pediatric, with adult, child, and infant size

1 Bulb syringe, separate from the OB kit

3 Oropharyngeal airways, with one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant

1 Water based lubricant, one tube or equivalent

2 O2 masks, non-rebreather or partial non-rebreather, one adult and one pediatric

1 Nasal cannula, adult

1 Portable oxygen apparatus, capable of metered flow with adequate tubing

Impedance threshold device\*

Defibrillator Equipment and Supplies:

1 Automated external defibrillator (AED), per vehicle or response unit

Automated chest compression device\*

Required Drugs:

1 Aspirin bottle Aspirin chewable 81 mg (minimum 8 tablets)

2 Epinephrine auto-injectors, one standard and one junior

1 Irrigation Solution 500cc

2 Oral Glucose tubes concentrated or equivalent

Activated Charcoal 25gm \*

Acetaminophen elixir 160mg/5ml\*

Ibuprofen (adult and pediatric)\*

Naloxone (Intranasal use only)\*

Nerve Antidote Kits (Mark I Kits or DuoDote)\*

(c) AEMT Quick Response Unit

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Heavy duty shears

2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

4 Cervical collars, one adult, one child, one infant, plus one other size

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

1 Glucose measuring device

1 Thermometer

2 Biohazard bags

1 Printed pediatric reference material

1 Obstetrical kit, includes cord clamp, scissors, scalpel, bulb syringe, drapes, towels, gloves, feminine napkin, Biohazard bags

1 Commercial tourniquet

2 Occlusive sterile dressings or equivalent

Disinfecting agent for cleaning vehicle and equipment of body fluids in accordance with OSHA standards of bleach diluted between 1:10 and 1:100 with water or equivalent

Reflective safety vests one for each crew member OSHA approved

Preventive T.B. Transmission masks (N95 or N100) masks one for each crew member

Protective eye wear (goggle or face shield) one for each crew member

Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

Hemostatic Gauze or agent\*

Transcutaneous carbon monoxide detector\*

Head Immobilization Device\*

Spine board (wood must be coated or sealed)\*

Immobilization straps\*

Multi-use splints\*

Whole body vacuum splint\*

Inflatable back raft\*

Airway Equipment and Supplies:

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

1 Oxygen saturation monitor with adult and pediatric probes

2 Bag valve mask ventilation units, one adult, one pediatric, with adult, child, and infant sizes

1 Bulb syringe, separate from the OB kit

3 Oropharyngeal airways, with one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant

2 O2 masks, non-rebreather or partial non-rebreather, one adult and one pediatric

1 Nasal cannula, adult



<u>1 Portable oxygen apparatus, capable of metered flow with adequate tubing</u>	<u>Amiodarone 300 mg IV*</u>
<u>2 Small volume nebulizer container for aerosol solutions</u>	<u>Atropine Sulfate 1mg each*</u>
<u>2 Magill forceps, one adult, child/infant</u>	<u>Calcium Gluconate*</u>
<u>1 Cath tip 60cc syringe* (for use with oro-nasogastric tube)</u>	<u>CyanoKit*</u>
<u>2 Supraglottic airway device (one adult and one pediatric (size)</u>	<u>Diazepam*</u>
<u>CPAP device*</u>	<u>Diphenhydramine 50 mg*</u>
<u>1 Water based lubricant, one tube or equivalent*</u>	<u>Fentanyl 200 mcg *</u>
<u>2 Oro-nasogastric tubes, one adult, and one pediatric*</u>	<u>Ibuprofen* (adult and pediatric)</u>
<u>End-tidal CO2 monitor*</u>	<u>Ipratropium bromide*(nebulized)</u>
<u>Impedance threshold device*</u>	<u>Lidocaine (IV for cardiac use)*</u>
<u>Defibrillator Equipment and Supplies</u>	<u>Lorazepam*</u>
<u>1 Defibrillator with ECG display, or automated external defibrillator (AED), portable battery operated, per vehicle or response unit</u>	<u>Midazolam*</u>
<u>2 Sets of adult electrode pads for defibrillation</u>	<u>Morphine sulfate 10mg*</u>
<u>1 12 lead ECG with transmission capability*</u>	<u>Nalbuphine 10 mg*</u>
<u>Automated chest compression device*</u>	<u>Nerve Agent Antidote kits* (Mark I Kits or DuoDote)</u>
<u>IV Supplies:</u>	<u>Nitrous oxide and required administration equipment*</u>
<u>10 Alcohol or Iodine preps</u>	<u>Sodium bicarbonate 50 meq*</u>
<u>2 IV start kits or equivalent</u>	<u>(d) EMT Ambulance</u>
<u>12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g</u>	<u>2 Blood pressure cuffs, one adult, one pediatric</u>
<u>2 Arm boards</u>	<u>2 Stethoscopes, one adult and one pediatric or combination</u>
<u>5 IV tubings capable of micro and macro drip chambers, minimum 2 of each</u>	<u>2 Pillows, with vinyl cover or single use disposable pillows</u>
<u>8 Syringes, two each, 60cc, 10cc, 3cc, and 1cc</u>	<u>2 Emesis basins, emesis bags, or large basins</u>
<u>1 Sharps container</u>	<u>1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds</u>
<u>1 Safety razor</u>	<u>2 Head immobilization devices or equivalent</u>
<u>2 Saline lock</u>	<u>2 Lower extremity traction splints or equivalent, one adult and one pediatric</u>
<u>4 Normal Saline for injection/inhalation</u>	<u>2 Non-traction extremity splints, one upper and one lower</u>
<u>1 Vacutainer holder*</u>	<u>2 Spine boards, one short and one long (wood must be coated or sealed)</u>
<u>4 Vacutainer tubes*</u>	<u>1 Full body pediatric immobilization device</u>
<u>2 Intraosseous needles, one each 15 or 16, and 18 gauge, or delivery device*</u>	<u>2 Heavy duty shears</u>
<u>Mucosal atomization device*</u>	<u>2 Urinals, one male, one female, or two universal</u>
<u>Morgan lens for ocular irrigation*</u>	<u>1 Printed pediatric reference material</u>
<u>Required Drugs:</u>	<u>2 Blankets</u>
<u>2 Albuterol Sulfate 2.5mg premixed</u>	<u>2 Sheets</u>
<u>1 Aspirin bottle chewable 81 mg (minimum 8 tablets)</u>	<u>3 Towels</u>
<u>2 Dextrose 50% 25gm preload</u>	<u>2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent</u>
<u>1 Epinephrine 1:1,000 1cc (1mg/1cc)</u>	<u>12 Gauze pads, sterile, 4"x4"</u>
<u>2 Epinephrine 1:10,000 1mg each*</u>	<u>8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent</u>
<u>1 Glucagon 2 mg</u>	<u>2 Rolls of tape</u>
<u>1 Irrigation solution 500cc</u>	<u>4 Cervical collars, one adult, one child, one infant, plus one other size</u>
<u>2 Naloxone HCL 2mg each</u>	<u>2 Triangular bandages</u>
<u>1 Nitroglycerine 0.4mg (tablets or spray)</u>	<u>2 Boxes of gloves, one box non-sterile and one box latex free or equivalent</u>
<u>2 Oral glucose concentrated tubes or equivalent 15g</u>	<u>1 Obstetrical kit (includes cord clamp, scissors, scalpel, bulb syringe, drapes, towels, gloves, feminine napkin, biohazard bags)</u>
<u>2 Promethazine HCL 25mg each or ondansetron 8mg, or both*</u>	<u>2 Occlusive sterile dressings or equivalent</u>
<u>Ringers Lactate or Normal Saline 4,000cc</u>	<u>1 Thermometer</u>
<u>may carry at least one benzodiazepine: midazolam, diazepam, or lorazepam*</u>	<u>Water based lubricant, one tube or equivalent</u>
<u>may carry either Lidocaine or Amiodarone, or both* must carry at least one pain medication: nitrous, morphine, nalbuphine, fentanyl Acetaminophen elixir 160mg/5ml*</u>	<u>2 Biohazard bags</u>
<u>Activated Charcoal 25gm *</u>	<u>Glucose measuring device</u>

1 Commercial tourniquet  
Car seat or equivalent approved by Federal Safety Standard  
Reflective safety vests one for each crew member OSHA approved  
Preventive T.B. transmission masks (N95 or N100) masks one for each crew member  
Protective eye wear (goggles or face shields) one for each crew member  
Full body substance isolation protection one for each crew member  
Disinfecting agent for cleaning vehicle and equipment of body fluids in accordance with OSHA standards of bleach diluted between 1:10 and 1:100 with water or equivalent  
Hemostatic Gauze or agent\*  
Whole body vacuum splint\*  
Inflatable back raft\*  
Transcutaneous carbon monoxide detector\*  
Mucosal atomization device\*  
Airway Equipment and Supplies  
1 Portable and fixed suction, with wide bore tubing and rigid pharyngeal suction tip  
1 Oxygen saturation monitor with adult and pediatric probes  
2 Bag valve mask ventilation units, one adult, one pediatric, with adult, child, and infant size  
1 Bulb syringe, separate from the OB kit  
3 Oropharyngeal airways, with one adult, one child, and one infant size  
3 Nasopharyngeal airways, one adult, one child, and one infant  
4 O2 masks, non-rebreather or partial non-rebreather, two adult and two pediatric  
2 Nasal cannulas, adult  
Portable oxygen apparatus, capable of metered flow with adequate tubing  
1 Permanent large capacity oxygen delivery system  
Impedance threshold device\*  
Automated transport ventilator\*  
Defibrillator Equipment and Supplies:  
Automated external defibrillator (AED), per vehicle or response unit  
Automated chest compression device\*  
Required Drugs  
1 Aspirin bottle chewable 81 mg (minimum 8 tablets)  
2 Epinephrine auto-injectors, one standard and one junior  
1 Irrigation Solution 500cc  
2 Oral Glucose tubes concentrated or equivalent  
Activated Charcoal 25gm \*  
Acetaminophen elixir 160mg/5ml\*  
Ibuprofen (adult and pediatric)\*  
Naloxone (Intranasal use only)\*  
Nerve Antidote Kits (Mark I Kits or DuoDote)\*  
(e) AEMT Ambulance  
2 Blood pressure cuffs, one adult, one pediatric  
2 Stethoscopes, one adult and one pediatric or combination  
2 Pillows, with vinyl cover or single use disposable pillows

2 Emesis basins, emesis bags, or large basins  
2 Head immobilization devices or equivalent  
2 Lower extremity traction splints or equivalent, one adult and one pediatric  
2 Non-traction extremity splints, one upper and one lower  
2 Spine boards, one short and one long (Wood must be coated or sealed)  
1 Full body pediatric immobilization device  
2 Heavy duty shears  
2 Urinals, one male, one female, or two universal  
1 Printed pediatric reference material  
2 Blankets  
2 Sheets  
3 Towels  
2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent  
12 Gauze pads, sterile, 4"x4"  
8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent  
2 Rolls of tape  
4 Cervical collars, three adult and one pediatric or equivalent  
2 Triangular bandages  
2 Boxes of gloves, one box non-sterile and one box latex free or equivalent  
1 Obstetrical kit (includes cord clamp, scissors, scalpel, bulb syringe, drapes, towels, gloves, feminine napkins, biohazard bags)  
2 Occlusive sterile dressings or equivalent  
1 Thermometer  
2 Biohazard bags  
1 Glucose measuring device  
1 Commercial tourniquet  
1 Car seat or equivalent approved by Federal Safety Standard  
Preventive T.B. transmission masks (N95 or N100) masks one for each crew member  
Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds  
Protective eye wear (goggles or face shields) one for each crew member  
Full body substance isolation protection one for each crew member  
Reflective safety vests one for each crew member OSHA approved  
Disinfecting agent for cleaning vehicle and equipment of body fluids in accordance with OSHA standards of bleach diluted between 1:10 and 1:100 with water or equivalent  
Hemostatic Gauze or agent\*  
Whole body vacuum splint\*  
Inflatable back raft\*  
Transcutaneous carbon monoxide detector\*  
Airway Equipment and Supplies:  
1 Portable and fixed suction, with wide bore tubing and rigid pharyngeal suction tip  
1 Oxygen saturation monitor with adult and pediatric probes

2 Bag valve mask ventilation units, one adult, one pediatric, with adult, child, and infant size  
1 Bulb syringe, separate from the OB kit  
3 Oropharyngeal airways, with one adult, one child, and one infant size  
3 Nasopharyngeal airways, one adult, one child, and one infant  
4 O2 masks, non-rebreather or partial non-rebreather, two adult and two pediatric  
2 Nasal cannulas, adult  
1 Portable oxygen apparatus, capable of metered flow with adequate tubing  
1 Permanent large capacity oxygen delivery system  
2 Small volume nebulizer container for aerosol solutions  
2 Magill forceps, one adult, child/infant  
1 Cath tip 60cc syringe\* (for use with oro-nasogastric tube)  
1 Water based lubricant, one tube or equivalent  
2 Oro-nasogastric tubes, one adult, and one pediatric\*  
2 Supraglottic airway device (one adult and one pediatric size)  
CPAP device\*  
Impedance threshold device\*  
End tidal CO2 Monitor\*  
Automated transport ventilator\*  
Morgan lens for ocular irrigation\*  
Defibrillator Equipment and Supplies:  
1 Defibrillator with ECG display, or automated external defibrillator (AED), portable battery operated, per vehicle or response unit  
2 Sets of adult electrode pads for defibrillation  
1 12 lead ECG with transmission capability\*  
Automated chest compression device\*  
IV Supplies:  
10 Alcohol or Iodine prep  
2 V start kits or equivalent  
12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g  
2 Arm boards  
5 IV tubings capable of micro and macro drip chambers, minimum 2 of each  
5 Extension tubings  
8 Syringes, two each, 60cc, 10cc, 3cc, and 1cc  
1 Three-way stopcock  
1 Sharps container  
1 Safety razor  
2 Saline lock  
4 Normal Saline for injection/inhalation  
2 Intraosseous needles, one each, 15 or 16, and 18 gauge or delivery device\*  
1 Volutrol Pediatric IV chamber\*  
Mucosal atomization device\*  
Vacutainer holder\*  
Vacutainer tubes\*  
Required Drugs:  
2 Albuterol Sulfate 2.5mg premixed  
1 Aspirin bottle chewable 81 mg (minimum 8 tablets)  
2 Dextrose 50% 25gm preload  
1 Epinephrine 1:1,000 1cc (1mg/1cc)

2 Epinephrine 1:10,000 1mg each\*  
1 Glucagon 2 mg  
1 Irrigation solution 500cc  
2 Naloxone HCL 2mg each  
1 Nitroglycerine 0.4mg (tablets or spray)  
2 Oral glucose concentrated tubes or equivalent 15g  
2 Promethazine HCL 25mg each or ondansetron 8mg, or both\*  
Ringers Lactate or Normal Saline 4,000cc  
may carry at least one benzodiazepine: midazolam, diazepam, or lorazepam\*  
may carry either Lidocaine or Amiodarone, or both\*  
must carry at least one pain medication: nitrous, morphine, nalbuphine, fentanyl  
Acetaminophen elixir 160mg/5ml\*  
Activated Charcoal 25gm \*  
Amiodarone 300 mg IV\*  
Atropine Sulfate 1mg each\*  
Calcium Gluconate\*  
CyanoKit\*  
Diazepam\*  
Diphenhydramine 50 mg\*  
Fentanyl 200 mcg \*  
Ibuprofen\* (adult and pediatric)  
Ipratropium bromide\*(nebulized)  
Lidocaine (IV for cardiac use)\*  
Lorazepam\*  
Midazolam\*  
Morphine sulfate 10mg\*  
Nalbuphine 10 mg\*  
Nerve Agent Antidote kits\* (Mark I Kits or DuoDote)  
Nitrous oxide and required administration equipment\*  
Sodium bicarbonate 50mEq each\*  
(f) Intermediate Advanced Ambulance  
2 Blood pressure cuffs, one adult, one pediatric  
2 Stethoscopes, one adult and one pediatric or combination  
2 Pillows, with vinyl cover or single use disposable pillows  
2 Emesis basins, emesis bags, or large basins  
2 Head immobilization devices or equivalent  
2 Lower extremity traction splints or equivalent, one adult and one pediatric  
2 Non-traction extremity splints, one upper, one lower, or PASG pants  
2 Spine boards, one short and one long (Wood must be coated or sealed)  
1 Full body pediatric immobilization device  
2 Heavy duty shears  
2 Urinals, one male, one female, or two universal  
1 Printed Pediatric Reference Material  
2 Blankets  
2 Sheets  
3 Towels  
1 Commercial Tourniquet  
2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent  
12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent  
2 Rolls of tape  
4 Cervical collars, three adult and one pediatric or equivalent  
2 Triangular bandages  
2 Boxes of gloves, one box non-sterile and one box latex free or equivalent  
1 Obstetrical kit (includes cord clamp, scissors, scalpel, bulb syringe, drapes, towels, gloves, feminine napkins, biohazard bags)  
2 Occlusive sterile dressings or equivalent  
1 Thermometer or equivalent  
2 Biohazard bags  
1 Glucose measuring device  
Car seat or equivalent approved by Federal Safety Standard  
Preventive T.B. transmission masks (N95 or N100) masks one for each crew member  
Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds  
Protective eye wear (goggles or face shields) one for each crew member  
Full body substance isolation protection one for each crew member  
Reflective safety vests one for each crew member OSHA approved  
Disinfecting agent for cleaning vehicle and equipment of body fluids in accordance with OSHA standards of bleach diluted between 1:10 and 1:100 with water or equivalent  
Hemostatic Gauze or agent\*  
Whole body vacuum splint\*  
Inflatable back raft\*  
Transcutaneous carbon monoxide detector\*  
Airway Equipment and Supplies:  
1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip  
2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks  
1 Baby syringe, bulb type, separate from the OB kit  
3 Oropharyngeal airways, with one adult, one child, and one infant size  
3 Nasopharyngeal airways, one adult, one child, and one infant  
2 Magill forceps, one adult and one child  
4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric  
2 Nasal cannulas, adult  
1 Portable oxygen apparatus, capable of metered flow with adequate tubing  
1 Oxygen saturation monitor  
1 Permanent large capacity oxygen delivery system  
2 Small volume nebulizer container for aerosol solutions  
1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs  
1 Water based lubricant, one tube or equivalent  
7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3

2 Endotracheal tube stylets, one pediatric and one adult  
1 Device for securing the endotracheal tube  
2 Endotracheal tube confirmation device  
2 Flexible sterile endotracheal suction catheters from 5-12 french  
2 Oro-nasogastric tubes, one adult, and one pediatric  
2 Supraglottic airway device (one adult and one pediatric size)  
Video laryngoscope\*  
Bougie device\*  
CPAP device\*  
Impedance threshold device\*  
End tidal CO2 Monitor\*  
Automated transport ventilator\*  
Morgan lens for ocular irrigation\*  
Defibrillator Equipment and Supplies:  
1 Portable cardiac monitor/defibrillator/pacer with adult and pediatric capabilities  
2 Sets Electrodes or equivalent  
2 Sets Combination type defibrillator pads pacing/cardioversion/defibrillator  
1 12 lead ECG with transmission capability\*  
Automated chest compression device\*  
IV Supplies:  
10 Alcohol or Iodine preps  
2 IV start kits or equivalent  
12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g  
2 Arm boards  
5 IV tubings capable of micro and macro drip chambers, minimum 2 of each  
8 Syringes, two each, 60cc, 10cc, 3cc, and 1cc  
1 Cath tip 60cc syringe  
1 Three-way stopcock  
1 Sharps container  
1 Safety razor  
2 Saline lock  
4 Normal Saline for injection/inhalation  
2 Intraosseous needles, one each, 15 or 16, and 18 gauge or delivery device  
1 Volutrol Pediatric IV chamber\*  
Mucosal atomization device\*  
Vacutainer holder\*  
Vacutainer tubes\*  
Required Drugs:  
2 Albuterol Sulfate 2.5mg premixed  
1 Aspirin bottle chewable 81 mg (minimum 8 tablets)  
2 Atropine Sulfate 1mg  
2 Dextrose 50% or Glucagon (must have 1 D50)  
2 Diphenhydramine intravenous 50mg each  
1 Epinephrine 1:1,000 15mg or equivalent  
2 Epinephrine 1:10,000 1mg each  
1 Irrigation solution 500cc  
2 Morphine Sulfate 10mg  
2 Naloxone HCL 2mg each  
1 Nitroglycerine bottle 0.4mg (tablets or spray)  
2 Oral glucose concentrated tubes or equivalent  
2 Promethazine HCL 25mg each or ondansetron 8mg, or buth

1 Ringers Lactate or Normal Saline 4.000cc  
must carry at least one benzodiazepine: midazolam,  
diazepam, or lorazepam\*  
must carry either Lidocaine or Amiodarone, or both\*  
must carry at least one pain medication: nitrous,  
morphine, nalbuphine, fentanyl  
Acetaminophen elixir 160mg/5ml\*  
Activated Charcoal 25gm\*  
Adenosine\*  
Amiodarone 300 mg IV\*  
Calcium Gluconate\*  
CyanoKit\*  
Diazepam\*  
Fentanyl 200 mcg\*  
Furosemide\*  
Ibuprofen\* (adult or pediatric)  
Ipratropium bromide\*(nebulized)  
Lidocaine (IV for cardiac use)\*  
Lorazepam\*  
Midazolam\*  
Nalbuphine 10 mg\*  
Nerve Agent Antidote kits (Mark I Kits or DuoDote)\*  
Nitrous oxide and required administration equipment\*  
(g) Paramedic Services (Rescue, Transfer and Ambulance  
Units)  
2 Blood pressure cuffs, one adult, one pediatric  
2 Stethoscopes, one adult and one pediatric or  
combination  
1 Thermometer  
1 Glucose measuring device  
2 Head immobilization devices or equivalent  
2 Lower extremity traction splints or equivalent, one adult  
and one pediatric  
2 Non-traction extremity splints, one upper and one lower  
2 Spine boards, one short and one long. Wooden boards  
must be coated or sealed  
1 Full body pediatric immobilization device. (Paramedic  
rescue units excluded)  
2 Heavy duty shears  
2 Blankets  
3 Towels  
2 Universal sterile dressings, 9"x5", 10"x8", 8"x 9", or  
equivalent  
12 Gauze pads, sterile, 4" x 4".  
8 Bandages, self-adhering, soft roller type, 4"x 5 yards or  
equivalent  
2 Rolls of tape  
4 Cervical collars, three adult and one pediatric or  
equivalent  
2 Triangular bandages  
2 Boxes of gloves, one box non-sterile and one box latex  
free or equivalent  
1 Obstetrical kits (includes cord clamp, scissors, scalpel,  
bulb syringe, drapes, towels, gloves, feminine napkins, biohazard  
bags)  
2 Occlusive sterile dressings or equivalent  
2 Emesis basins, emesis bags, or large basins  
1 Printed pediatric reference material  
2 Urinals, one male, one female, or two universal

2 Pillows with vinyl cover or single use disposable  
pillows (paramedic rescue units excluded)  
2 Sheets (paramedic rescue units excluded)  
1 Commercial Tourniquet  
2 Biohazard bags  
Car seat or equivalent approved by Federal Safety  
Standard - (paramedic rescue units excluded) change definition  
Preventive T.B. transmission masks (N95 or N100) masks  
one for each crew member  
Fire extinguisher, with current inspection sticker, of the  
dry chemical type with a rating of 2A10BC or halogen extinguisher  
of minimum weight 2.5 - 10 pounds  
Protective eye wear (goggles or face shields) one for each  
crew member  
Full body substance isolation protection one for each crew  
member  
Reflective safety vests one for each crew member OSHA  
approved  
Disinfecting agent for cleaning vehicle and equipment of  
body fluids in accordance with OSHA standards of bleach diluted  
between 1:10 and 1:100 with water or equivalent  
Hemostatic Gauze or agent\*  
Whole body vacuum splint\*  
Inflatable back raft\*  
Transcutaneous carbon monoxide detector\*  
Airway Equipment and Supplies:  
1 Portable and fixed suction, with wide bore tubing and  
rigid pharyngeal suction tip  
1 Portable suction unit, with wide bore tubing and rigid  
pharyngeal suction tip - (paramedic rescue units only)  
1 Oxygen saturation monitor with adult and pediatric  
probes  
1 Bulb syringe separate from the OB kit  
1 Laryngoscope with batteries curved and straight blades  
with bulbs and two extra batteries and two extra bulbs  
Video laryngoscope\*  
Bougie device\*  
1 Water based lubricant, one tube or equivalent  
11 Endotracheal tubes, one each, uncuffed 3, 3.5 4, 4.5,  
and 5, cuffed 5.5, 6, 6.5, 7, 7.5, 8  
2 Endotracheal tube stylets, one pediatric and one adult  
1 Device for securing the endotracheal tube  
2 Endotracheal tube confirmation devices  
2 Flexible sterile endotracheal suction catheters from 5-12  
french  
3 Oropharyngeal airways, one adult, one child, and one  
infant size  
3 Nasopharyngeal airways, one adult, one child, and one  
infant size  
2 Magill forceps, one child and one adult/infant  
1 Portable oxygen apparatus, capable of metered flow  
with adequate tubing  
2 Oro-nasogastric tubes, one adult, and one pediatric  
4 O2 masks, non-rebreather or partial non-rebreather, two  
adult and two pediatric  
2 Nasal cannulas, adult  
2 Bag mask ventilation units, one adult, one pediatric,  
with adult, child, and infant size masks  
2 Tongue blades

1 Meconium aspirator  
1 Cricothyroidotomy kit  
2 Small volume nebulizer container for aerosol solutions  
1 Permanent large capacity oxygen delivery system (paramedic rescue units excluded)  
2 Supraglottic airway device (one adult and one pediatric size)  
CPAP Device\*  
Impedance Threshold Device\*  
End tidal CO2 Monitor\*  
Automated transport ventilator\*  
Morgan lens for ocular irrigation\*  
Portable Sonographic device\*  
Defibrillator Equipment and Supplies:  
1 Portable cardiac monitor/defibrillator/pacer with adult and pediatric capabilities  
2 Sets Electrodes or equivalent  
2 Sets Combination type defibrillator pads pacing/cardioversion/defibrillator  
1 12 lead ECG with transmission capability\*  
Automated chest compression device\*  
IV Supplies:  
10 Alcohol or iodine preps  
2 IV start kits or equivalent  
12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g, 24g  
2 Intraosseous needles, one each, 15 or 16, and 18 gauge or delivery device  
2 Arm boards  
5 IV tubings capable of micro and macro drip chambers, minimum 2 of each  
2 IV tubings with blood administration sets  
1 Volutrol Pediatric IV chamber  
8 Syringes, two each, 60cc, 10cc, 3cc, and 1cc  
2 Saline lock  
4 Normal Saline for injection/inhalation  
1 Cath tipped syringe, 60cc  
2 Three-way stopcocks  
1 Sharps container  
1 Safety razor  
1 Cath tipped syringe, 30cc\*  
Vacutainer holder\*  
Vacutainer multiple sample luer adapters\*  
Vacutainer tubes\*  
Mucosal atomization device\*  
IV Infusion pumps\*  
Required Drugs:  
2 Albuterol Sulfate 2.5mg pre-mixed  
1 Aspirin bottle 81 mg chewable (minimum 8 tablets)  
2 Atropine Sulfate 1mg  
2 Dextrose 50% preload  
2 Diphenhydramine intravenous 50mg each  
2 Dopamine HCL 400mg each or 2 mics/ml Epinephrine drip (2cc Epinephrine 1:1,000 to 1000cc LR% or NS), or both  
1 Epinephrine 1:1,000 15mg or equivalent  
2 Epinephrine 1:10,000 1mg each  
1 Glucagon 2 mg  
1 Irrigation solution 500cc  
4 Naloxone HCL 2mg each

1 Nitroglycerine bottle 0.4mg (tablets or spray)  
2 Oral Glucose concentrated 15g tubes or equivalent  
2 Promethazine HCL 25mg each or ondansetron 8mg, or both  
Ringers Lactate or Normal Saline 4,000cc  
2 Sodium Bicarbonate 50mEq each  
must carry at least one benzodiazepine: midazolam, diazepam, or lorazepam\*  
must carry either Lidocaine or Amiodarone, or both\*  
must carry at least one pain medication: nitrous, morphine, nalbuphine, fentanyl, hydromorphone, or meperidine  
Acetaminophen 160mg/5ml\*  
1 Activated Charcoal 25gm \*  
Adenosine\*  
2 Amiodarone 300 mg IV\*  
Calcium Gluconate\*  
CyanoKit\*  
Diazepam\*  
Droperidol\*  
Fentanyl 200 mcg\*  
Furosemide\*  
Haloperidol\*  
Hydromorphone\*  
Ibuprofen\* (adult or pediatric)  
Ipratropium bromide\* (nebulized)  
2 Lidocaine\* (IV for cardiac use)  
Lorazepam\*  
Magnesium Sulfate\*  
Meperidine\*  
Midazolam\*  
2 Morphine Sulfate 10mg each\*  
Nalbuphine 10mg\*  
Nerve Agent Antidote kits\*(Mark I Kits or DuoDote)  
Nitrous oxide and required administration equipment\*  
Oxytocin\*  
Procainamide\*  
Vasopressin\*  
Vecuronium\* (only for therapeutic hypothermia protocol)  
(3) If a licensed or designated agency desires to carry different equipment, supplies, or medication from the vehicle supply requirements, it must submit a written request from the off-line medical director to the Department requesting the waiver. The request shall include:  
(a) a detailed training outline;  
(b) protocols;  
(c) proficiency testing;  
(d) support documentation;  
(e) local EMS Council or committee comments; and  
(f) a detailed letter of justification.  
(4) All equipment, except disposable items, shall be so designed, constructed, and of such materials that under normal conditions and operations, it is durable and capable of withstanding repeated cleaning. The permittee agency:  
(a) Shall clean the equipment after each use in accordance with OSHA standards;  
(b) shall sanitize or sterilize equipment prior to reuse;  
(c) may not reuse equipment intended for single use;  
(d) shall clean and change linens after each use; and

\_\_\_\_\_ shall store or secure all equipment in a readily accessible and protected manner and in a manner to prevent its movement during a crash.

\_\_\_\_\_ (5) The permittee agency shall have all tested, maintain all equipment, and calibrated in according to with the manufacturer's standards.

\_\_\_\_\_ (a) The permittee agency shall document all equipment inspections, testing, and maintenance, and calibrations. Testing or calibration conducted by an outside service shall be documented and available for Department review.

\_\_\_\_\_ (b) an permittee agency required to carry any of the following equipment shall perform monthly inspections to ensure its ability to function correctly:

\_\_\_\_\_ (i) defibrillator, manual, or automatic;

\_\_\_\_\_ (ii) autovent;

\_\_\_\_\_ (iii) infusion pump;

\_\_\_\_\_ (iv) glucometer;

\_\_\_\_\_ (v) flow restricted, oxygen-powered ventilation devices;

\_\_\_\_\_ (vi) suction equipment;

\_\_\_\_\_ (vii) electronic Doppler device;

\_\_\_\_\_ (viii) automatic blood pressure/pulse measuring device;

and

\_\_\_\_\_ (ix) pulse oximeter.

\_\_\_\_\_ (x) any other electronic, battery powered, or critical care device.

\_\_\_\_\_ (6) All pieces of required equipment that require consumables for the operation of the equipment; power supplies; electrical cables, pneumatic power lines, hydraulic power lines, or related connectors, the permittee shall perform monthly inspections to ensure their correct function.

\_\_\_\_\_ (7) A ground ambulance licensee shall store all medications according to the manufacturers' recommendations.

\_\_\_\_\_ (a) for temperature control and packaging requirements; and

\_\_\_\_\_ (b) return to the supplier for replacement of any medication known or suspected to have been subjected to temperatures outside the recommended range.

#### **RA26-4-1000. Air Ambulance Supply Requirements.**

\_\_\_\_\_ (1) Air ambulance vehicle requirements are as follows:

\_\_\_\_\_ (a) The air ambulance must have sufficient space to accommodate at least one patient on a stretcher;

\_\_\_\_\_ (b) the air ambulance must have sufficient space to accommodate at least two medical attendant seats; and

\_\_\_\_\_ (c) the patient stretcher shall be FAA-approved.

\_\_\_\_\_ (i) it must be installed using the FAA 337 form or a "Supplemental Type Certificate";

\_\_\_\_\_ (ii) the stretcher shall be of sufficient length and width to support a patient in full supine position who is ranked as a 95th percentile American male that is 6 feet tall and weighing 212 pounds; and

\_\_\_\_\_ (iii) The head of the stretcher shall be capable of being elevated at least 30 degrees.

\_\_\_\_\_ (d) the air ambulance doors shall be large enough to allow a stretcher to be loaded without rotating it more than 30 degrees about the longitudinal roll axis, or 45 degrees about the lateral pitch axis;

\_\_\_\_\_ (e) the stretcher shall be positioned so as to allow the medical attendants a clear view and access to any part of the

patient's body that may require medical attention. Seat-belted medical attendants must have access to the patient's head and upper body;

\_\_\_\_\_ (f) the patient, stretcher, attendants, seats, and equipment shall be so arranged as to not block the pilot, medical attendants, or patients from easily exiting the air ambulance;

\_\_\_\_\_ (g) the air ambulance shall have FAA- approved two point safety belts and security restraints adequate to stabilize and secure any patient, patient stretcher, medical attendants, pilots, or other individuals;

\_\_\_\_\_ (h) the air ambulance shall have a temperature and ventilation system for the patient treatment area;

\_\_\_\_\_ (i) the patient area shall have overhead or dome lighting of at least 40-foot candle at the patient level, to allow adequate patient care. During night operations the pilot's cockpit shall be protected from light originating from the patient care area;

\_\_\_\_\_ (j) the air ambulance shall have a self-contained interior lighting system powered by a battery pack or portable light with a battery source;

\_\_\_\_\_ (k) the pilots, flight controls, power levers, and radios shall be physically protected from any intended or accidental interference by patient, air medical personnel or equipment and supplies;

\_\_\_\_\_ (l) the patient must be sufficiently isolated from the cockpit to minimize in-flight distractions and interference which would affect flight safety;

\_\_\_\_\_ (m) the interior surfaces shall be of material easily cleaned, sanitized, and designed for patient safety. Protruding sharp edges and corners shall be padded;

\_\_\_\_\_ (n) patients whose medical problems may be adversely affected by changes in altitude may only be transported in a pressurized air ambulance;

\_\_\_\_\_ (o) the air medical service shall provide all medical attendants with sound ear protectors sufficient to reduce excessive noise pollution arising from the air ambulance during flight; and

\_\_\_\_\_ (p) there shall be sufficient medical oxygen to assure adequate delivery of oxygen necessary to meet the patient medical needs and anticipated in-flight complications. The medical oxygen must:

\_\_\_\_\_ (i) Be installed according to FAA regulation;

\_\_\_\_\_ (ii) have an oxygen flow rate determined by in-line pressure gauges mounted in the patient care area with each outlet clearly identified and within reach of a seat-belted medical attendant;

\_\_\_\_\_ (iii) allow the oxygen flow to be stopped at or near the oxygen source from inside the air ambulance;

\_\_\_\_\_ (iv) have gauges that easily identify the quantity of medical oxygen available;

\_\_\_\_\_ (v) be capable of delivering fifteen liters/minute at fifty psi;

\_\_\_\_\_ (vi) have a portable oxygen bottle available for use during patient transfer to and from the air ambulance;

\_\_\_\_\_ (vii) have a fixed back-up source of medical oxygen in the event of an oxygen system failure;

\_\_\_\_\_ (viii) the oxygen flow meters shall be recessed, padded, or by other means mounted to prevent injury to patients or medical attendants; and

\_\_\_\_\_ (ix) "No smoking" signs shall be prominently displayed inside the air ambulance.

(q) the air ambulance electric power must be provided through a power source capable to operate the medical equipment and a back-up source of electric power capable of operating all electrically powered medical equipment for one hour;

(r) the air ambulance must have at least two positive locking devices for intravenous containers padded, recessed, or mounted to prevent injury to air ambulance occupants;

(s) the containers shall be within reach of a seat-belted medical attendant;

(t) the air ambulance must be fitted with a metal hard lock container, fastened by hard point restraints to the air ambulance, or must have a locking cargo bay for all controlled substances left in an unattended;

(u) an air ambulance shall have properly maintained survival gear appropriate to the service area and number of occupants;

(v) an air ambulance shall have an equipment configuration that is installed according to FAA criteria and in such a way that the air medical personnel can provide patient care;

(w) the air ambulance shall be configured in such a way that the air medical personnel have access to the patient in order to begin and maintain basic and advanced life support care;

(x) the air ambulance shall have space necessary to allow patient airway maintenance and to provide adequate ventilatory support from the secured, seat-belted position of the medical personnel;

(y) be knowledgeable in the application, operation, care, and removal of all medical equipment used in the care of the patient.

(z) The air medical personnel shall have a knowledge of potential in-flight complications, which may arise from the use of the medical equipment and its in-flight capabilities and limitations; and

(2) have available during transport, a current copy of all written protocols authorized for use by the air medical service medical director. Patient care shall be governed by these authorized written protocols.

#### **R426-4-1100. Air Ambulance Equipment Standards.**

(1) Air ambulances must maintain minimum quantities of supplies and equipment for each air medical transport as listed in the document R426 Appendix in accordance with the air medical service's licensure level. Due to weight and safety concerns on specialized air transports, the air medical service medical director shall insure that the appropriate equipment is carried according to the needs of the patient to be transported. All medications shall be stored according to manufacturer recommendations.

(2) All medical equipment except disposable items, shall be designed, constructed, and made of materials that under normal conditions and operations are durable and capable of withstanding repeated cleaning.

(3) The equipment and medical supplies shall be maintained in working condition and within legal specifications.

(4) All non-disposable equipment shall be cleaned or sanitized after each air medical transport.

(5) Medical equipment shall be stored and readily accessible by air medical personnel.

(6) Before departing, the air medical personnel shall notify the pilot of any add-on equipment for weight and balance considerations.

(7) Physical or chemical restraints must be available and used for combative patients who could possibly hurt themselves or any other person in the air ambulance.

#### **R426-4-1200. Air Ambulance Operational Standards.**

(1) The pilot may refuse transport to any individual who the pilot considers to be a safety hazard to the air ambulance or any of its passengers.

(2) Records made for each trip on forms or data format specified by the Department and a copy shall remain at the receiving facility for continuity of care.

(3) The air medical service must maintain a personnel file for personnel, which shall include their qualifications and training.

(4) All air medical services must have an operational manual or policy and procedures manual available for all air medical personnel.

(5) All air medical service records shall be available for inspection by representatives of the Department.

(6) All air ambulances shall be equipped to allow air medical service personnel to be able to:

(a) Communicate with hospital emergency medical departments, flight operations centers, air traffic control, emergency medical services, and law enforcement agencies.

(b) Communicate with other air ambulances while in flight.

(i) The pilot must be able to override any radio or telephone transmission in the event of an emergency.

(7) The management of the air medical service shall be familiar with the federal regulations related to air medical services.

(8) Each air medical service must have a safety committee, with a designated safety officer. The committee shall meet at least quarterly to review safety issues and submit a written report to the air medical service management and maintain a copy on file at the air medical service office.

(9) All air medical service shall have a quality management team and a program implemented by this team to assess and improve the quality of patient care provided by the air medical service.

#### **R426-4-1300. Penalties.**

As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6 and/or suspension or revocation of license(s).

#### **KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: 2013**

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



**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-5  
Statewide Trauma System Standards**

**NOTICE OF PROPOSED RULE**  
(Repeal and Reenact)  
DAR FILE NO.: 37685  
FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This repealed and reenacted rule is in response to the Governor's mandate for rule review and simplification. This proposed repeal and reenactment is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** The rule change includes a repeal of statewide trauma standard rules. It adds revised rules for the professional development of emergency medical services personnel including certification standards, educational requirements, standards of conduct, and discipline of emergency service personnel. This rule will replace current rules found in Rule R426-12. (DAR NOTE: The proposed repeal of Rule R426-12 is under DAR No. 37691 in this issue, July 1, 2013, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by these amendments.
- ◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by these amendments.
- ◆ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the rule requirements that are imposed by these amendments.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by these amendments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs for affected persons include individuals who are seeking certification to become or continue to be certified as an Emergency Medical Responder, Emergency

Medical Technician, Advanced Emergency Technician, or paramedic. The compliance costs for these certified individuals may be lessened, since lower cost options are now available.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There should be no adverse effect on business. The proposed rule allows specified grace periods if individuals need to recertify to new designations. Otherwise the standards are comparable.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013**

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

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

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

**R426-5-1. Authority and Purpose.**

~~(1) Authority — This rule is established under Title 26, Chapter 8a, Part 2A, Statewide Trauma System, which authorizes the Department to:~~

~~(a) establish and actively supervise a statewide trauma system;~~

~~(b) establish, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport and transfer of trauma patients to the most appropriate health care facility; and~~

~~(c) designate trauma care facilities consistent with the trauma center designation requirements and verification process.~~

~~(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of Trauma Centers to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.~~

~~(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary~~

to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

**R426-5-2. Trauma System Advisory Committee.**

(1) The trauma system advisory committee, created pursuant to 26-8a-251, shall:

(a) be a broad and balanced representation of healthcare providers and health care delivery systems; and

(b) conduct meetings in accordance with committee procedures established by the Department and applicable statutes.

(2) The Department shall appoint committee members to serve terms from one to four years.

(3) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.

(4) Causes for removal of a committee member include the following:

(a) more than two unexcused absences from meetings within 12 calendar months;

(b) more than three excused absences from meetings within 12 calendar months;

(c) conviction of a felony; or

(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

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

The Department adopts as criteria for Level I, Level II, Level III, and Pediatric trauma center designation, compliance with national standards published in the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 2006. The Department adopts as criteria for Level IV and Level V trauma center designation the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 1999, except that a Level V trauma center need not have a general surgeon on the medical staff and may be staffed by nurse practitioners or certified physician assistants.

**R426-5-4. Trauma Review.**

(1) The Department shall evaluate trauma centers and applicants to verify compliance with standards set in R426-5-2. In conducting each evaluation, the Department shall consult with experts from the following disciplines:

(a) trauma surgery;

(b) emergency medicine;

(c) emergency or critical care nursing; and

(d) hospital administration.

(2) A consultant shall not assist the Department in evaluating a facility in which the consultant is employed, practices, or has any financial interest.

**R426-5-5. Trauma Center Categorization Process.**

The Department shall:

(1) Develop a survey document based upon the Trauma Center Criteria described in R426-5-

(2) Periodically survey all Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.

(3) Disseminate survey results to all Utah hospitals, and as appropriate, to state EMS agencies.

**R426-5-6. Trauma Center Designation Process.**

(1) Hospitals seeking voluntary designation and all designated Trauma Centers desiring to remain designated, shall apply for designation by submitting the following information to the Department at least 30 days prior to the date of the scheduled site visit:

(a) A completed and signed application and appropriate fees for trauma center verification;

(b) A letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;

(c) The data specified under R426-5-8 are current;

(d) Level I and Level II Trauma Centers must submit a copy of the Pre-review Questionnaire (PRQ) from the American College of Surgeons in lieu of the application in 1a above.

(e) Level III Level IV and Level V trauma centers must submit a complete Department approved application.

(2) Hospitals desiring to be designated as Level I and Level II Trauma Centers must be verified by the American College of Surgeons (ACS) within three (3) months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A Department representative must be present during the entire ACS verification visit. Hospitals desiring to be Level III, Level IV or Level V Trauma Centers must be designated by hosting a formal site visit by the Department.

(3) The Department and its consultants may conduct observation, review and monitoring activities with any designated trauma center to verify compliance with designation requirements.

(4) Trauma centers shall be designated for a period of three years unless the designation is rescinded by the Department for non-compliance to standards set forth in R426-5-6 or adjusted to coincide with the American College of Surgeons verification timetable.

(5) The Department shall disseminate a list of designated trauma centers to all Utah hospitals, and state EMS agencies, and as appropriate, to hospitals in nearby states which refer patients to Utah hospitals.

**R426-5-7. Data Requirements for an Inclusive Trauma System.**

(1) All hospitals shall collect, and quarterly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. The inclusion criteria for a trauma patient are as follows:

(a) ICD9 Diagnostic Codes between 800 and 959.9 (trauma); and

(b) At least one of the following patient conditions:

admitted to the hospital for 24 hours or longer; transferred in or out of your hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission or hospital transfer status; all air ambulance transports (including death in transport and patients flown in but not admitted to the hospital).

(c) Exclusion criteria are ICD9 Diagnostic Codes:

- ~~930-939.9 (foreign bodies)~~
- ~~905-909.9 (late effects of injury)~~
- ~~910-924.9 (superficial injuries, including blisters, contusions, abrasions, and insect bites)~~
- ~~The information shall be in a standardized electronic format specified by the Department which includes:~~
  - ~~(i) Demographics:~~
    - ~~Database Record Number~~
    - ~~Institution ID number~~
    - ~~Medical Record Number~~
    - ~~Social Security Number~~
    - ~~Patient Home Zip Code~~
    - ~~Sex~~
    - ~~Date of Birth~~
    - ~~Age Number and Units~~
    - ~~Patient's Home Country~~
    - ~~Patient's Home State~~
    - ~~Patient's Home County~~
    - ~~Patient's Home City~~
    - ~~Alternate Home Residence~~
    - ~~Race~~
    - ~~Ethnicity~~
  - ~~(ii) Injury:~~
    - ~~Date of Injury~~
    - ~~Time of Injury~~
    - ~~Blunt, Penetrating, or Burn Injury~~
    - ~~Cause of Injury Description~~
    - ~~Cause of Injury Code~~
    - ~~Work Related Injury (y/n)~~
    - ~~Patient's Occupational Industry~~
    - ~~Patient's Occupation~~
    - ~~Primary E-Code~~
    - ~~Location E-Code~~
    - ~~Additional E-Code~~
    - ~~Incident Location Zip Code~~
    - ~~Incident State~~
    - ~~Incident County~~
    - ~~Incident City~~
    - ~~Protective Devices~~
    - ~~Child Specific Restraint~~
    - ~~Airbag Deployment~~
  - ~~(iii) Prehospital:~~
    - ~~Name of EMS Service~~
    - ~~Transport Origin Scene or Referring Facility~~
    - ~~Trip Form Obtained (y/n)~~
    - ~~EMS Dispatch Date~~
    - ~~EMS Dispatch Time~~
    - ~~EMS Unit Arrival on Scene Date~~
    - ~~EMS Unit Arrival on Scene Time~~
    - ~~EMS Unit Scene Departure Date~~
    - ~~EMS Unit Scene Departure Time~~
    - ~~Transport Mode~~
    - ~~Other Transport Mode~~
    - ~~Initial Field Systolic Blood Pressure~~
    - ~~Initial Field Pulse Rate~~
    - ~~Initial Field Respiratory Rate~~
    - ~~Initial Field Oxygen Saturation~~
    - ~~Initial Field GCS-Eye~~
    - ~~Initial Field GCS-Verbal~~
- ~~Initial Field GCS-Motor~~
- ~~Initial Field GCS-Total~~
- ~~Inter-Facility Transfer~~
- ~~(iv) Referring Hospital:~~
  - ~~Transfer from Another Hospital (y/n)~~
  - ~~Name or Code~~
  - ~~Arrival Date~~
  - ~~Arrival Time~~
  - ~~Discharge Date~~
  - ~~Discharge time~~
  - ~~Transfer Mode~~
  - ~~Admitted or ER~~
  - ~~Procedures~~
  - ~~Pulse~~
  - ~~Capillary Refill~~
  - ~~Respiratory Rate~~
  - ~~Respiratory Effort~~
  - ~~Blood Pressure~~
  - ~~Eye Movement~~
  - ~~Verbal Response~~
  - ~~Motor Response~~
  - ~~Glascow Coma Score Total~~
  - ~~Revised Trauma Score Total~~
- ~~(v) Emergency Department Information:~~
  - ~~Mode of Transport~~
  - ~~Arrival Date~~
  - ~~Arrival Time~~
  - ~~Discharge Time~~
  - ~~Discharge Date~~
  - ~~Initial ED/Hospital Pulse Rate~~
  - ~~Initial ED/Hospital Temperature~~
  - ~~Initial ED/Hospital Respiratory Rate~~
  - ~~Initial ED/Hospital Respiratory Assistance~~
  - ~~Initial ED/Hospital Oxygen Saturation~~
  - ~~Initial ED/Hospital Systolic Blood Pressure~~
  - ~~Initial ED/Hospital GCS-Eye~~
  - ~~Initial ED/Hospital GCS-Verbal~~
  - ~~Initial ED/Hospital GCS-Motor~~
  - ~~Initial ED/Hospital GCS-Total~~
  - ~~Initial ED/Hospital GCS-Assessment Qualifiers~~
  - ~~Revised Trauma Score Total~~
  - ~~Alcohol Use Indicator~~
  - ~~Drug Use Indicator~~
  - ~~ED Discharge Disposition~~
  - ~~ED Death~~
  - ~~ED Discharge Date~~
  - ~~ED Discharge Time~~
- ~~(vi) Emergency Department Treatment:~~
  - ~~Procedures Done (pick list)~~
  - ~~Paralytics used prior to GCS (y/n)~~
- ~~(vii) Admission Information:~~
  - ~~Admit from ER or Direct Admit~~
  - ~~Admitted from what Source~~
  - ~~Time of Hospital Admission~~
  - ~~Date of Hospital Admission~~
  - ~~Hospital Procedures~~
  - ~~Hospital Procedure Start Date~~
  - ~~Hospital Procedure Start Time~~
- ~~(viii) Hospital Diagnosis:~~

~~ICD9 Diagnosis Codes~~  
~~Injury Diagnoses~~  
~~Co-Morbid Conditions~~  
~~AIS Score for Diagnosis (calculated)~~  
~~Injury Severity Score~~  
~~(ix) Quality Assurance Indicators:~~  
~~Hospital Complications~~  
~~(x) Outcome:~~  
~~Discharge Time~~  
~~Discharge Date~~  
~~Total Days Length of Stay~~  
~~Total ICU Length of Stay~~  
~~Total Ventilator Days~~  
~~Disposition from Hospital~~  
~~Destination Facility~~  
~~(xi) Charges:~~  
~~Payment Sources~~

**R426-5-8. Trauma Triage and Transfer Guidelines.**

~~The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health as model guidelines for triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute care hospitals which are appropriate to adequately receive trauma patients.~~

**R426-5-9. Noncompliance to Standards.**

~~(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-5.~~

~~(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.~~

**R426-5-10. Statutory Penalties.**

~~A person who violates this rule is subject to the provisions of Title 26, Chapter 23.]~~

**R426-5. Emergency Medical Services Training and Certification Standards.**

**R426-5-100. Authority and Purpose.**

~~(1) This rule is established under Title 26, Chapter 8a to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the training, certification, and recertification of individuals who provide emergency medical service and for those providing instructions and training to pre-hospital emergency medical care providers.~~

~~(2) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.~~

**R426-5-200. Scope of Practice.**

~~(1) The Department may certify as an EMR, EMT, AEMT, EMT-IA Paramedic, or EMD an individual who meets the initial certification requirements in this rule.~~

~~(2) The Committee adopts as the standard for EMR, EMT, AEMT, EMT-IA, or Paramedic training and competency in the state, the following United States Department of Transportation's National Emergency Medical Services Education Standards.~~

~~(3) An EMR, EMT, AEMT, or Paramedic may perform the skills as described in the EMS National Education Standards, to their level of certification, as adopted in this section.~~

~~(4) Per Utah Code section 41-6a-523 persons authorized to draw blood/immunity from liability and section 53-10-405 DNA specimen analysis -- Saliva sample to be obtained -- Blood sample to be drawn by a professional. Acting at the request of a peace officer a paramedic may draw field blood samples to determine alcohol or drug content and for DNA analysis. Acting at the request of a peace officer an AEMT may draw field blood samples to determine alcohol or drug content and for DNA analysis if they have received certification pursuant to administrative rule R438-12. A person authorized by this section to draw blood samples may not be held criminally or civilly liable if drawn in a medically acceptable manner.~~

**R426-5-300. Certification.**

~~(1) The Department may certify an EMR, EMT, EMT-IA, AEMT, Paramedic, or EMD for a four-year period.~~

~~(2) An individual who wishes to become certified as a EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD must:~~

~~(a) successfully complete a Department-approved EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD course as described in this rule;~~

~~(b) be able to perform the functions listed in the National EMS Education Standards adopted in this rule as verified by personal attestation and successful accomplishment by certified EMS Instructors during the course;~~

~~(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for an EMR, EMT, AEMT, Paramedic, or EMD certification;~~

~~(d) submit the applicable fees and a completed application, including social security number and signature, to the Department;~~

~~(e) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;~~

~~(f) maintain and submit documentation of having completed a Department approved CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Healthcare Provider Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC); and~~

~~(g) submit TB test results as per R426-5-700.~~

~~(3) Age requirements:~~

~~(a) EMR may certify at 16 years of age or older; and~~

~~(b) EMT, AEMT, and Paramedic may certify at 18 years of age or older.~~

~~(4) Within 120 days after the official course end date the applicant must successfully complete the Department written and practical EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD examinations, or reexaminations, if necessary.~~

- (5) Test development, the Department shall:
- (a) develop or approve written and practical tests for each certification;
  - (b) establish the passing score for certification and recertification written and practical tests;
  - (c) the Department may administer the tests or delegate the administration of any test to another entity; and
  - (d) the Department may release only to the individual who took the test and to persons who have a signed release from the individual who took the test:
    - (i) whether the individual passed or failed a written or practical test; and
    - (ii) the subject areas where items were missed on a written or practical test.
- (6) An individual who fails any part of the EMR, EMT, AEMT, Paramedic, or EMD certification or recertification written or practical examination may retake the examination twice without further course work.
- (7) If the individual fails both re-examinations, he must take a complete EMR, EMT, AEMT, Paramedic, or EMD training course respective to the certification level sought to be eligible for further examination.
- (8) The individual may retake the course as many times as he desires, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual must pass both the practical and written test administered after completion of the new course.
- (9) An individual who wishes to enroll in an AEMT or Paramedic course must have as a minimum a Utah EMT certification. This Certification must remain current until new certification level is obtained.
- (10) The Department may extend the time limits for an individual who demonstrates that the inability to meet the requirements within the 120 days was due to circumstances beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.

#### **R426-5-400. Certification at a Lower Level.**

- (1) An individual who has taken a Paramedic course, but has not been recommended for certification, may request to become certified at the AEMT levels if:
- (a) the paramedic course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and
  - (b) the individual successfully completes all requirements for an AEMT.

#### **R426-5-500. Certification Challenges.**

- (1) The Department may certify as an EMT or AEMT: a registered nurse licensed in Utah, a nurse practitioner licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:
- (a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the National EMS Education Standards as verified by personal attestation and successful

demonstration to a currently certified course coordinator and an off-line medical director of all cognitive, affective, and psychomotor skills listed in the National EMS Education Standards;

- (b) has a knowledge of:
    - (i) medical control protocols;
    - (ii) state and local protocols; and
    - (iii) the role and responsibilities of an EMT or AEMT respectively.
  - (c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for adult and pediatric healthcare provider CPR and ECC; and
  - (d) is 18 years of age or older.
  - (e) each level must be challenged sequentially and individually
- (2) To become certified, the applicant must:
- (a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;
  - (b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of all knowledge and skills contained within the National EMS Education Standards;
  - (c) submit the applicable fees and a completed application, including social security number, signature, and proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor;
  - (d) within 120 days after submitting the challenge application, successfully complete the Department written and practical EMT examinations, or reexaminations, if necessary;
  - (e) the Department may extend the time limit for an individual who demonstrates that the inability to meet the requirements within 120 days was due to circumstances beyond the applicant's control;
  - (f) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years; and
  - (g) submit a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

#### **R426-5-600. Recertification Requirements.**

- (1) The Department may recertify an individual for a four-year period or for a shorter period as modified by the Department to standardize recertification cycles.
- (2) An individual seeking recertification must:
- (a) submit the applicable fees and a completed application, including social security number and signature, to the Department;
  - (b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;
  - (c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Provider CPR and ECC. CPR must be kept current during certification;
  - (d) submit TB test results as per R426-5-700;

(e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration; and

(f) provide documentation of completion of Department-approved CME requirements.

(3) The EMR, EMT, AEMT, EMT-IA and Paramedic must complete the required CME hours, as outlined in the department's Recertification Protocol for EMS Personnel manual and in accordance with the National EMS Education Standards. The hours must be completed throughout the prior four years.

(4) As well as requirements in (2)(c) The following course completion documentation is required for the specific certification level and may be included in the CME required hours:

(a) EMR 52 hours of CME.

(b) EMT 98 hours of CME.

(c) AEMT 108 hours of CME.

(d) EMT-IA 108 hours of CME.

(e) Paramedic 144 hours of CME; and,

(f) EMD 48 hours of CME.

(5) An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD may complete CME hours through various methodologies, but 30 percent of the CME hours must be practical hands-on training.

(6) All CME must be related to the required skills and knowledge of the EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD's level of certification.

(7) The CME Instructors need not be certified EMS instructors, but must be knowledgeable in the subject matter.

(8) The EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD must complete and provide documentation of demonstrating the psychomotor skills listed in the current National EMS Education Standards at their level of certification.

(9) An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD who is affiliated with an EMS organization should have the organization's designated training officer submit a letter verifying the completion of the recertification requirements. An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD who is not affiliated with an agency must submit verification of all recertification requirements directly to the Department.

(10) An AEMT, EMT-IA or Paramedic must submit a letter from a certified off-line medical director recommending the individual for recertification and verifying the individual has demonstrated proficiency in the psychomotor skills listed in the current National EMS Education Standards at their level of certification.

(11) Each EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD is individually responsible to complete and submit all required recertification material to the Department at one time, no later than 30 days and no earlier than one year prior to the individual's current certification expiration date. If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires. The Department processes recertification material in the order received.

(12) An EMS agency, designated or non-designated, or a Department approved entity that provides CME may compile and submit recertification materials on behalf of an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD; however, the individual EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD remains responsible for a timely and complete submission.

(13) The Department may shorten recertification periods. An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD whose recertification period is shortened must meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.

(14) The Department may not lengthen certification periods more than the four-year certification, unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when certification expired. If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.

#### **R426-5-700. TB Test Requirements.**

(1) All levels of certification and recertification except EMD must submit a statement from a physician or other health care provider, confirming the applicant's negative results of a Tuberculin Skin Test or equivalent (TB test) examination conducted within the prior year, or complete the following requirements:

(a) if the test is positive, and there is no documented history of prior Latent TB Infection (LTBI) treatment, the applicant must see his primary care physician for a chest x-ray (CXR) in accordance with current Center for Disease Control and Prevention (CDC) guidelines and further evaluation; and

(b) Results of CXR and medical history must be submitted to the Bureau.

(2) If the CXR is negative, the applicant's medical history will be reviewed by the State EMS Medical Director. For individuals at high risk for developing active TB, treatment will be strongly recommended.

(3) If the CXR is positive, the applicant is considered to be suspect Active TB. Should the diagnosis be confirmed:

(a) Completion of treatment or release by an appropriate physician will be required prior to certification; and

(b) each such case will be reviewed by the State EMS Medical Director.

(4) In the event that an applicant who is required to get treatment refuses the treatment, BEMS may deny certification.

(5) A TB test should not be performed on a person who has a documented history of either a prior positive TB test or prior treatment for tuberculosis. The applicant must instead have a CXR in accordance with current CDC guidelines and provide documentation of negative CXR results to the department.

(6) If the applicant has had prior treatment for active TB or LTBI, the applicant must provide documentation of this treatment prior to certification. Documentation of this treatment will be maintained by the Bureau, and needs only to be provided once.

(7) Each such case will be reviewed by the State EMS Medical Director.

#### **R426-5-800. Reciprocity.**

(1) The Department may certify an individual as an EMR, EMT, AEMT, Paramedic, or EMD an individual certified outside of the State of Utah if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for certification in Utah based on out-of-state training and experience must:

(a) Submit the applicable fees and a completed application, including social security number and signature, to the

Department and complete all of the following within 120 days of submitting the application:

(b) submit to and pass a background investigation, including an FBI background investigation if the applicant has not resided in Utah for the past consecutive five years;

(c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Healthcare Provider CPR and ECC;

(d) submit TB test results as per R426-5-700;

(e) successfully complete the Department written and practical EMR, EMT, AEMT, Paramedic, or EMD examinations, or reexaminations, if necessary;

(f) submit a current certification from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs; and

(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year. EMDs must provide documentation of completion of 12 hours of CME within the prior year

(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD) or equivalent. An individual seeking reciprocity for certification in Utah based on NAEMD or equivalent certification must:

(a) Submit documentation of current NAEMD or equivalent certification.

(b) maintain and submit documentation of having completed within the prior two years;

(i) a Department approved CPR course that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and

(ii) a minimum of a two-hour course in critical incident stress management (CISM).

(4) An individual who fails the written or practical EMR, EMT, or AEMT examination three times will be required to complete a Department approved EMR, EMT, or AEMT, course respective to the certification level sought.

(5) A candidate for paramedic reciprocity who fails the written or practical examinations three times can request further consideration of reciprocity after five years if the candidate has worked for an out of state EMS provider and can verify steady employment as a paramedic for at least three of the five years.

#### **R426-5-900. Lapsed Certification.**

(1) An individual whose EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification has expired for less than one year may, within one year after expiration, complete all recertification requirements, pay a late recertification fee, and successfully pass the written certification examination to become certified. The individual's new expiration date will be four years from the previous expiration date.

(2) An individual whose certification has expired for more than one year must:

(a) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in patient care skills at the certification level;

(b) successfully complete the applicable Department written and practical examinations;

(c) complete all recertification requirements; and

(d) the individual's new expiration date will be four years from the completion of all recertification materials.

(3) An individual whose certification has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD until the individual completes the recertification process.

#### **R426-5-1000. Transition to 2009 National EMS Education Standards.**

(1) The Department adopts the 2009 National Education Standards as noted in this rule resulting in a need for specific dates for a transition period. These dates shall be as follows:

(a) EMT Basic to EMT January 1, 2012 to January 1, 2016; and

(b) EMT Intermediate to Advanced EMT, October 1, 2011 to September 30, 2013.

(2) Transition for EMT-B to EMT will be accomplished through the Department's written examination as part of the Individual's recertification process during the transition period.

(3) Transition for EMT-I and EMT-IA to AEMT will be accomplished through the Department's written AEMT transition examination during the transition period.

(4) Transition will not change the Individual's recertification date.

(5) During the transition period:

(a) EMT-I and EMT-IA will be deemed equivalent to AEMT certification, in accordance with the respective agency's waivers; and

(b) EMT-B will be deemed equivalent to EMT certification.

(c) EMT-IA may maintain level of certification as long as employed by a licensed EMT-IA agency.

(6) After the deadline of September 31, 2013 of the AEMT transition period:

(a) an EMT-I who has not yet transitioned will be deemed an EMT and may only function as an EMT, and;

(b) an EMT-IA who is not working for a licensed EMT-IA agency must have transitioned to an AEMT or shall be deemed an EMT.

#### **R426-5-1100. Emergency Medical Care During Clinical Training.**

A student enrolled in a Department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise require certification to perform.

#### **R426-5-1200. Instructor Requirements.**

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-5-1300; and

(b) is currently certified in Utah as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD.

(2) The Committee adopts the United States Department of Transportation's "EMS Instructor Training Program as the

standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the certification level to which the instructor is certified. An EMS instructor who is only certified as an EMD may only teach EMD courses.

(4) An EMS instructor must comply with the teaching standards and procedures in the EMS Instructor Manual.

(5) An EMS instructor must maintain the EMS certification for the level that the instructor is certified to teach. If an individual's EMS certification lapses, the instructor certification is invalid until EMS certification is renewed.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate that the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

#### **R426-5-1300. Instructor Certification.**

(1) The Department may certify an individual who is an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD as an EMS Instructor for a two-year period.

(2) An individual who wishes to become certified as an EMS Instructor must:

(a) Submit an application and pay all applicable fees;

(b) submit three letters of recommendation regarding EMS skills and teaching abilities;

(c) submit documentation of 15 hours of teaching experience;

(d) successfully complete all required examinations; and

(e) successfully complete the Department-sponsored initial EMS instructor training course.

(3) An individual who wishes to become certified as an EMS Instructor to teach EMR, EMT, AEMT, or paramedic courses must also:

(a) Provide documentation of 30 hours of patient care within the prior year.

(4) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

#### **R426-5-1400. Instructor Recertification.**

(1) An EMS instructor who wishes to recertify as an instructor must:

(a) maintain current EMS certification; and

(b) attend the required Department-approved recertification training at least once in the two year recertification cycle;

(2) Submit an application and pay all applicable fees.

#### **R426-5-1500. Instructor Lapsed Certification.**

(1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements.

(2) An EMS instructor whose instructor certification has expired for more than two years must complete all initial instructor certification requirements and reapply as if there were no prior certification.

#### **R426-5-1600. Training Officer Certification.**

(1) The Department may certify an individual who is a certified EMS instructor as a training officer for a two-year period.

(2) An individual who wishes to become certified as an EMS Training officer must:

(a) Be currently certified as an EMS instructor;

(b) successfully complete the Department's course for new training officers;

(c) submit an application and pay all applicable fees; and

(d) submit biennially a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.

(3) A training officer must maintain EMS instructor certification to retain training officer certification.

(4) An EMS training officer must abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

#### **R426-5-1700. Training Officer Recertification.**

(1) A training officer who wishes to recertify as a training officer must:

(a) Attend a training officer seminar at least once in the two year recertification cycle;

(b) maintain current EMS instructor and EMS certification;

(c) submit an application and pay all applicable fees;

(d) successfully complete any Department-examination requirements; and

(e) submit biennially a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the current training officer manual.

#### **R426-5-1800. Training Officer Lapsed Certification.**

(1) An individual whose training officer certification has expired for less than two years may again become certified by completing the recertification requirements. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose training officer certification has expired for more than two year must complete all initial training officer certification requirements and reapply as if there were no prior certification.

#### **R426-5-1900. Course Coordinator Certification.**

(1) The Department may certify an individual as an EMS course coordinator for a two-year period.

(2) An individual who wishes to certify as a course coordinator must:

(a) Be certified as an EMS instructor;

(b) be a co-coordinator of record for one Department-approved course with a certified course coordinator;

(c) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;

(d) complete certification requirements within one year of completion of the Department's course for new course coordinators;

(e) submit an application and pay all applicable fees;



\_\_\_\_\_ (f) complete the Department's course for new course coordinators;

\_\_\_\_\_ (g) sign and submit annually the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and

\_\_\_\_\_ (h) maintain EMS instructor certification.

\_\_\_\_\_ (3) A Course Coordinator may only coordinate courses up to the certification level to which the course coordinator is certified. A course coordinator, who is only certified as an EMD, may only coordinate EMD courses.

\_\_\_\_\_ (4) A course coordinator must abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

\_\_\_\_\_ (5) A Course Coordinator must maintain an EMS Instructor certification and the EMS certification for the level that the course coordinator is certified to coordinate. If an individual's EMS certification lapses, the Course Coordinator certification is invalid until EMS certification is renewed.

**R426-5-2000. Course Coordinator Recertification.**

\_\_\_\_\_ (1) A course coordinator who wishes to recertify as a course coordinator must:

\_\_\_\_\_ (a) Maintain current EMS instructor and EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification;

\_\_\_\_\_ (b) coordinate or co-coordinate at least one Department-approved course every two years;

\_\_\_\_\_ (c) attend a course coordinator seminar at least once in the two year recertification cycle;

\_\_\_\_\_ (d) submit an application and pay all applicable fees; and

\_\_\_\_\_ (e) sign and submit biannually a Course Coordinator Contract to the Department agreeing to abide by the policies and procedures in the then current Course Coordinator Manual.

**R426-5-2100. Course Coordinator Lapsed Certification.**

\_\_\_\_\_ (1) An individual whose course coordinator certification has expired for less than two year may again become certified by completing the recertification requirements. The individual's new expiration date will be two years from the recertification date.

\_\_\_\_\_ (2) An individual whose course coordinator certification has expired for more than two year

\_\_\_\_\_ must complete all initial course coordinator certification requirements and reapply as if there were no prior certification.

**R426-5-2200. Course Approvals.**

\_\_\_\_\_ (1) A course coordinator offering EMS training to individuals who wish to become certified as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD must obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

\_\_\_\_\_ (a) The applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;

\_\_\_\_\_ (b) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;

\_\_\_\_\_ (c) the Department finds that the course meets all the Department rules and contracts governing training;

\_\_\_\_\_ (d) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and

\_\_\_\_\_ (e) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

**R426-5-2300. Paramedic Training Institutions Standards Compliance.**

\_\_\_\_\_ (1) A person must be authorized by the Department to provide training leading to the certification of a paramedic.

\_\_\_\_\_ (2) To become authorized and maintain authorization to provide paramedic training, a person must:

\_\_\_\_\_ (a) Enter into the Department's standard paramedic training contract; and

\_\_\_\_\_ (b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

**R426-5-2400. Off-line Medical Director Requirements.**

\_\_\_\_\_ (1) The Department may certify an off-line medical director for a four-year period.

\_\_\_\_\_ (2) An off-line medical director must be:

\_\_\_\_\_ (a) a physician actively engaged in the provision of emergency medical care;

\_\_\_\_\_ (b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and

\_\_\_\_\_ (c) familiar with medical equipment and medications required.

**R426-5-2500. Off-line Medical Director Certification.**

\_\_\_\_\_ (1) An individual who wishes to certify as an off-line medical director must:

\_\_\_\_\_ (a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;

\_\_\_\_\_ (b) submit an application and;

\_\_\_\_\_ (c) pay all applicable fees.

\_\_\_\_\_ (2) An individual who wishes to recertify as an off-line medical director must:

\_\_\_\_\_ (a) attend the medical directors annual workshop at least once every four years

\_\_\_\_\_ (b) submit an application; and

\_\_\_\_\_ (c) pay all applicable fees.

**R426-5-2600. Refusal, Suspension, or Revocation of Certification.**

\_\_\_\_\_ (1) The Department shall exclude from EMS certification an individual who may pose an unacceptable risk to public health and safety, as indicated by his criminal history. The Department shall conduct a background check on each individual who seeks to certify or recertify as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD, including an FBI background investigation if the individual has resided outside of Utah within the past consecutive five years.

\_\_\_\_\_ (2) An individual convicted of certain crimes presents an unreasonable risk and the Department shall deny all applications for certification or recertification from individuals convicted of any of the following crimes:

(a) Sexual misconduct if the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

(b) sexual or physical abuse of children, the elderly or infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on an elderly or infirm person;

(c) abuse, neglect, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant, if the victim is an out-of-hospital patient or a patient or resident of a health care facility; and

(d) crimes of violence against persons, such as aggravated assault, murder or attempted murder, manslaughter except involuntary manslaughter, kidnapping, robbery of any degree; or arson; or attempts to commit such crimes.

(3) Except in extraordinary circumstances, established by clear and convincing evidence that certification or recertification will not jeopardize public health and safety, the Department shall deny applicants for certification or recertification in the following categories:

(a) Persons who are convicted of any crime not listed in (a) and who are currently incarcerated, on work release, on probation or on parole;

(b) conviction of crimes in the following categories, unless at least three years have passed since the conviction or at least three years have passed since release from custodial confinement, whichever occurs later:

(i) Crimes of violence against persons, such as assault;

(ii) crimes defined as domestic violence under Section 77-36-1;

(iii) crimes involving controlled substances or synthetics, or counterfeit drugs, including unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act; and

(iv) crimes against property, such as grand larceny, burglary, embezzlement or insurance fraud.

(c) the Department may deny certification or recertification to individuals convicted of crimes, including DUIs, but not including minor traffic violations chargeable as infractions after consideration of the following factors:

(i) the seriousness of the crime;

(ii) whether the crime relates directly to the skills of pre-hospital care service and the delivery of patient care;

(iii) the amount of time that has elapsed since the crime was committed;

(iv) whether the crime involved violence to or abuse of another person;

(v) whether the crime involved a minor or a person of diminished capacity as a victim;

(vi) whether the applicant's actions and conduct since the crime occurred are consistent with the holding of a position of public trust;

(vii) the total number of arrests and convictions; and

(viii) whether the applicant was truthful regarding the crime on his or her application.

(4) Certified EMS personnel must notify the Department of any arrest, charge, or conviction within seven days of the arrest, charge or conviction. If the person works for a licensed or designated EMS agency, the agency is also responsible to inform the Bureau of the arrest, charge or conviction.

(5) An official EMS agency representative verified by the supervisor of the agency may receive information pertaining to Department actions about an employee or a potential employee of the agency if a Criminal History Non-Disclosure Agreement is signed by the EMS agency representative.

(6) The Department may require EMS personnel to submit to a background examination or a drug test upon Department request.

(7) The Department may refuse to issue a certification or recertification, or suspend or revoke a certification, or place a certification on probation, for any of the following causes:

(a) Any of the reasons for exclusion listed in Subsection (1);

(b) a violation of Subsection (2);

(c) a refusal to submit to a background examination pursuant to Subsection (3);

(d) habitual or excessive use or addiction to narcotics or dangerous drugs;

(e) refusal to submit to a drug test administered by the individual's EMS provider organization or the Department;

(f) habitual abuse of alcoholic beverages or being under the influence of alcoholic beverages while on call or on duty as an EMS personnel or while driving any Department-permitted vehicle;

(g) failure to comply with the training, certification, or recertification requirements for the certification;

(h) failure to comply with a contractual agreement as an EMS instructor, a training officer, or a course coordinator;

(i) fraud or deceit in applying for or obtaining a certification;

(j) fraud, deceit, incompetence, patient abuse, theft, or dishonesty in the performance of duties and practice as a certified individual;

(k) unauthorized use or removal of narcotics, drugs, supplies or equipment from any emergency vehicle or health care facility;

(l) performing procedures or skills beyond the level of certification or agency licensure;

(m) violation of laws pertaining to medical practice, drugs, or controlled substances;

(n) conviction of a felony, misdemeanor, or a crime involving moral turpitude, excluding minor traffic violations chargeable as infractions;

(o) mental incompetence as determined by a court of competent jurisdiction;

(p) demonstrated inability and failure to perform adequate patient care;

(q) inability to provide emergency medical services with reasonable skill and safety because of illness, under the influence of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated; and

(r) misrepresentation of an individual's level of certification;

(s) failure to display a state-approved emblem with level of certification during an EMS response, and

(t) other or good cause, including conduct which is unethical, immoral, or dishonorable to the extent that the conduct reflects negatively on the EMS profession or might cause the public to lose confidence in the EMS system.

~~(8) The Department may suspend an individual for a felony misdemeanor arrest, or charges pending the resolution of the charge if the nature of the charge is one that, if true, the Department could:~~

- ~~(a) Revoke the certification under subsection (1); and~~
- ~~(b) the Department may order EMS personnel not to practice when an active criminal or administrative investigation is being conducted.~~

**R426-5-2700. Penalties.**

~~As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6 and/or suspension or revocation of certification(s).~~

**KEY:** emergency medical services~~], trauma, reporting, trauma center designation]~~

**Date of Enactment or Last Substantive Amendment:** [~~November 16, 2011~~]**2013**

**Notice of Continuation:** April 26, 2012

**Authorizing, and Implemented or Interpreted Law:** [~~26-8a-252~~]**26-8a-302**

Health, Family Health and Preparedness, Emergency Medical Services

**R426-6**

Emergency Medical Services Competitive Grants Program Rules

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)  
DAR FILE NO.: 37686  
FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This repealed and reenacted rule is in response to the Governor's mandate for rule review and simplification. This proposed repeal and reenactment is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** The rule change includes a repeal and reenactment of existing competitive grants administrative rules. It defines the process used to allocate state funds to emergency service agencies. It includes the criteria and the formula for the determining grant awards.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated fiscal impact to state budget because there are no changes in the existing rule requirements that are imposed by these amendments.
- ◆ **LOCAL GOVERNMENTS:** Funding for local governments that administer emergency medical services may be impacted if changes occur in their awards for competitive grant funding. Impacts could be either positive or negative depending on the selection process.
- ◆ **SMALL BUSINESSES:** Funding for small businesses that administer emergency medical services may be impacted if changes occur in their awards for competitive grant funding. Impacts could be either positive or negative depending on the selection process.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the rule requirements that are imposed by these amendments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated fiscal impact because there are no changes in the rule requirements that are imposed by these amendments.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This will have a positive impact on business because it provides additional funding for specific local EMS needs.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON:** 08/07/2013

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

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

~~[R426-6. Emergency Medical Services Competitive Grants Program Rules.~~

~~**R426-6-1. Authority and Purpose.**~~

~~(1) This rule is established under Title 26, Chapter 8a.~~

~~(2) The purpose of this rule is to provide guidelines for the equitable distribution of competitive grant funds specified under the Emergency Medical Services Grants Program.~~

**R426-6-2. Definitions.**

~~(1) County EMS Council or Committee means a group of persons recognized by the county commission as the legitimate entity within the county to formulate policy regarding the provision of EMS.~~

~~(2) Multi-county EMS council or committee means a group of persons recognized by an association of counties as the legitimate entity within the association to formulate policy regarding the provision of EMS.~~

**R426-6-3. Eligibility.**

~~(1) Competitive grants are available for use specifically related to the provision of emergency medical services.~~

~~(2) Grantees must be in compliance with the EMS Systems Act and all EMS rules during the grant period.~~

~~(3) An applicant that is six months or more in arrears in payments owed to the Department is ineligible for competitive grant consideration.~~

**R426-6-4. Grant Implementation.**

~~In accordance with Title 26, Chapter 8a, awards shall be implemented by grants between the Department and the grantee.~~

~~(1) Grant awards are effective on July 1 and must be used by June 30 of the following year.~~

~~(2) Grant funding is on a reimbursable basis after presentation of documentation of expenditures which are in accordance with the approved grant awards budget.~~

**R426-6-5. Competitive Grant Process.**

~~(1) The Grant Program Guidelines, outlining the review schedule, funding amounts, eligible expenditures, and awards schedule shall be established annually by the EMS Committee.~~

~~(2) The department may accept only complete applications which are submitted by the deadlines established by the EMS Committee.~~

~~(3) It is the intent of the EMS Committee that there be local EMS council or committee review of EMS grant applications. Therefore, copies of grant applications should be provided by grant applicants to their respective county EMS councils or committees and the multi-county EMS councils or committees, where organized, for review and recommendation to the State Grants subcommittee.~~

~~(4) Agencies that are licensed or designated, whose EMS service area includes multiple local EMS Committee jurisdictions will be reviewed separately by the State Grants Subcommittee.~~

~~(5) The Grants Subcommittee shall review the competitive grant applications and forward its recommendations to the EMS Committee. The EMS Committee shall review and comment on the Grants Subcommittee recommendations and forward to the Department.~~

~~(6) Grant recipients shall provide matching funds in the amount specified in the Grant Program Guidelines.~~

~~(7) The Grants Subcommittee may recommend reducing or waiving the matching fund requirements where appropriate in order to respond to special or pressing local or state EMS issues.~~

~~(8) The Grants Subcommittee shall make recommendations based upon the following criteria:~~

~~(a) the impact on patient care;~~

~~(b) a description of the size and significant impediments of the geographic service area;~~

~~(c) the population demographics of the service area;~~

~~(d) the urgency of the need;~~

~~(e) call volume;~~

~~(f) the per capita grant allocated to each agency, and its relative benefit on the agency to provide EMS service;~~

~~(g) local county recommendation;~~

~~(h) a description of the agency; and~~

~~(i) percent of responses to non-residents of the service area.~~

**R426-6-6. Interim or Emergency Grant Awards.**

~~(1) The Grants Subcommittee may recommend interim or emergency grants if all the following are met:~~

~~(a) Grant funds are available;~~

~~(b) The applicant clearly demonstrates the need;~~

~~(c) the application was not rejected by the Grants Subcommittee during the current grant cycle; and~~

~~(d) Delay of funding to the next scheduled grant cycle would impair the agency's ability to provide EMS care.~~

~~(2) Applicants for interim or emergency grants shall:~~

~~(a) submit an interim/emergency grant application, following the same format as annual grant applications; and~~

~~(b) submit the interim/emergency grant application to the Department at least 30 days prior to the EMS Committee meeting at which the grant application will be reviewed.~~

~~(3) The Grants Subcommittee shall review the interim/emergency grant application and forward recommendations to the EMS Committee. The EMS Committee shall review and comment on the Grants Subcommittee recommendations and forward to the Department.]~~

**R426-6. Emergency Medical Services Per Capita and Competitive Grant Programs Rules.**

**R426-6-1. Authority and Purpose.**

~~(1) This rule is established under Title 26 Chapter 8a.~~

~~(2) The purpose of this rule provides guidelines for the equitable distribution of per capita grant funds and competitive grant funds specified under the Emergency Medical Services (EMS) Grants Program.~~

**R426-6-2. Per Capita and Competitive Grants Eligibility.**

~~(1) Grants are available only to licensed EMS ambulance services, paramedic services, EMS designated first response units, and EMS dispatch providers that are either:~~

~~(a) Agencies or political subdivisions of local or state government or incorporated non-profit entities; or~~

~~(b) for-profit EMS providers that are the primary EMS provider for a service area.~~

~~(2) A for-profit EMS provider is a primary EMS provider in a geographical service area if it is licensed for and provides service at a higher level than the public or non-profit provider:~~

~~(a) The levels of EMS providers are in this rank order:~~

~~(i) Paramedic service;~~

~~(ii) EMT-IA;~~

~~(iii) Advanced EMT;~~

~~(iv) EMT;~~

~~(v) EMR;~~

~~(vi) EMD.~~

(b) Paramedic ambulance interfacility transports, EMT ambulance interfacility transports, or paramedic tactical rescue units are not eligible for grant funding because they cannot be the primary EMS provider for a geographical service area.

(3) Grants are available for use specifically related to the provision of emergency medical services. Grant funds cannot be used for rescue and fire equipment.

(4) Grantees must be in compliance with the EMS Systems Act and all EMS rules during the grant period.

(5) An applicant that is six months or more in arrears in payments owed to the Department is ineligible for per grant consideration.

#### **R426-6-3. Per Capita and Competitive Grants Implementation.**

(1) In accordance with Title 26, Chapter 8a, awards shall be implemented by grants between the Department and the grantee.

(2) The Grant Program Guidelines, outlining the review schedule, funding amounts, eligible expenditures, and awards schedule shall be established annually by the Department and EMS Committee.

(3) The department may accept only complete applications which are submitted by the deadlines established by the Department and EMS Committee.

(4) Grant awards are effective on July 1 and must be used by June 30 of the following year. No extensions will be given.

(5) Grant funding is on a reimbursable basis after presentation of documentation of expenditures which are in accordance with the approved grant awards budget.

(6) No matching funds are required for per capita grants.

(7) Per capita funds may be used as matching funds for competitive grants.

#### **R426-6-4. Per Capita Application and Award Formula.**

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

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

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

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

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

(3) The Department shall allocate funds by using the following point totals for agency-certified personnel: certified Dispatchers = 1; certified EMRs = 1; certified EMTs = 2; certified Advanced EMTs = 3; certified Intermediate Advanced EMTs = 3; and certified Paramedics = 4. The number of certified personnel is based upon the personnel rosters of each licensed EMS provider, designated EMS dispatch agency, and designated EMS first response unit as a date as specified by the Department immediately prior to the grant year, which begins July 1. To comply with Legislative intent, the point

totals of each eligible agency will be multiplied by the current county classification as provided under Section 17-50-501.

#### **R426-6-5. Competitive Grant Process.**

(1) It is the intent of the EMS Committee that there the local EMS council or committee review of EMS grant applications. Therefore, copies of competitive grant applications should be provided by grant applicants to their respective county EMS councils or committees and the multi-county EMS councils or committees, where organized, for review and recommendation to the State Grants subcommittee.

(2) Agencies that are licensed or designated, whose EMS service area includes multiple local EMS Committee jurisdictions will be reviewed separately by the State Grants Subcommittee.

(3) The Grants Subcommittee shall review the competitive grant applications and forward its recommendations to the EMS Committee. The EMS Committee shall review and comment on the Grants Subcommittee recommendations and forward to the Department.

(4) Grant recipients shall provide matching funds in the amount specified in the Grant Program Guidelines.

(5) The Grants Subcommittee may recommend reducing or waiving the matching fund requirements where appropriate in order to respond to special or pressing local or state EMS issues.

(6) The Grants Subcommittee shall make recommendations based upon the following criteria:

(a) The impact on patient care;

(b) a description of the size and significant impediments of the geographic service area;

(c) the population demographics of the service area;

(d) the urgency of the need;

(e) call volume;

(f) the per capita grant allocated to each agency, and its relative benefit on the agency to provide EMS service;

(g) local county recommendation;

(h) a description of the agency; and

(i) percent of responses to non-residents of the service area.

#### **R426-6-6. Interim or Emergency Grant Awards.**

(1) The Grants Subcommittee may recommend interim or emergency grants if all the following are met:

(a) Grant funds are available;

(b) The applicant clearly demonstrates the need;

(c) the application was not rejected by the Grants Subcommittee during the current grant cycle; and

(d) Delay of funding to the next scheduled grant cycle would impair the agency's ability to provide EMS care.

(2) Applicants for interim or emergency grants shall:

(a) Submit an interim/emergency grant application, following the same format as annual grant applications; and

(b) submit the interim/emergency grant application to the Department at least 30 days prior to the EMS Committee meeting at which the grant application will be reviewed.

(3) The Grants Subcommittee shall review the interim/emergency grant application and forward recommendations to the EMS Committee. The EMS Committee shall review and comment on the Grants Subcommittee recommendations and forward to the Department.

**KEY:** emergency medical services[, EMS competitive grants]  
**Date of Enactment or Last Substantive Amendment:** [May 30,] 2013  
**Authorizing, and Implemented or Interpreted Law:** 26-8a

## Health, Family Health and Preparedness, Emergency Medical Services **R426-7**

### Emergency Medical Services Prehospital Data System Rules

**NOTICE OF PROPOSED RULE**  
 (Repeal and Reenact)  
 DAR FILE NO.: 37687  
 FILED: 06/04/2013

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This repealed and reenacted rule is in response to the Governor's mandate for rule review and simplification. This proposed repeal and reenactment is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** The rule change includes a revision of data elements required for emergency medical service providers. It is a comprehensive update for required data based on national standards and elements determined to be necessary through an EMS Rules Task Force, and the State EMS Committee.

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

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No anticipated fiscal impact for the state budget because there are no changes in the existing rule requirements that are imposed by these amendments.
- ◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact for local governments because there are no changes in the existing rule requirements that are imposed by these amendments.
- ◆ **SMALL BUSINESSES:** No anticipated fiscal impact for small businesses because there are no changes in the existing rule requirements that are imposed by these amendments.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact for businesses because there are no

changes in the existing rule requirements that are imposed by these amendments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated fiscal impact because there are no changes in the existing rule requirements that are imposed by these amendments.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Minimal impact on business because providers are currently equipped to provide these data.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 EMERGENCY MEDICAL SERVICES  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

#### **R426. Health, Family Health and Preparedness, Emergency Medical Services.**

##### ~~[R426-7. Emergency Medical Services Prehospital Data System Rules.~~

##### ~~**R426-7-1. Authority and Purpose.**~~

- ~~(1) This rule is established under Title 26 chapter 8a.~~
- ~~(2) The purpose of this rule is to establish minimum mandatory EMS data reporting requirements.~~

##### ~~**R426-7-2. Definitions.**~~

- ~~As used in this rule:~~
- ~~(1) "Emergency Medical Services Provider" means:~~
  - ~~(a) a licensed ground or air ambulance provider; or~~
  - ~~(b) a designated first responder.~~
- ~~(2) "EMS Incident" means an instance in which an Emergency Medical Services Provider is requested to provide emergency medical services, including a mutual aid request, and which results in:~~
  - ~~(a) a 911 response;~~
  - ~~(b) an inter-facility transport;~~
  - ~~(c) patient refusal of care;~~
  - ~~(d) no care needed;~~
  - ~~(e) a cancelled response; or~~
  - ~~(f) an instance where no patient is found.~~

(3) "Patient Care Report" means a record of the response by each responding Emergency Medical Services Provider unit to each patient during an EMS Incident.

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

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

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

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

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

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

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

- D01\_01 EMS Agency Number
- D01\_02 EMS Agency Name
- D01\_03 EMS Agency State
- D01\_04 EMS Agency County
- D01\_05 Primary Type of Service
- D01\_06 Other Types of Service
- D01\_07 Level of Service
- D01\_08 Organizational Type
- D01\_09 Organization Status
- D01\_10 Statistical Year
- D01\_11 Other Agencies In Area
- D01\_12 Total Service Size Area
- D01\_13 Total Service Area Population
- D01\_14 911 Call Volume per Year
- D01\_15 EMS Dispatch Volume per Year
- D01\_16 EMS Transport Volume per Year
- D01\_17 EMS Patient Contact Volume per Year
- D01\_18 EMS Billable Calls per Year
- D01\_19 EMS Agency Time Zone
- D01\_20 EMS Agency Daylight Savings Time Use
- D01\_21 National Provider Identifier
- D02\_01 Agency Contact Last Name
- D02\_02 Agency Contact Middle Name/Initial
- D02\_03 Agency Contact First Name

- D02\_04 Agency Contact Address
  - D02\_05 Agency Contact City
  - D02\_06 Agency Contact State
  - D02\_07 Agency Contact Zip Code
  - D02\_08 Agency Contact Telephone Number
  - D02\_09 Agency Contact Fax Number
  - D02\_10 Agency Contact Email Address
  - D02\_11 Agency Contact Web Address
  - D03\_01 Agency Medical Director Last Name
  - D03\_02 Agency Medical Director Middle Name/Initial
  - D03\_03 Agency Medical Director First Name
  - D03\_04 Agency Medical Director Address
  - D03\_05 Agency Medical Director City
  - D03\_06 Agency Medical Director State
  - D03\_07 Agency Medical Director Zip Code
  - D03\_08 Agency Medical Director Telephone Number
  - D03\_09 Agency Medical Director Fax Number
  - D03\_10 Agency Medical Director's Medical Specialty
  - D03\_11 Agency Medical Director Email Address
  - D04\_01 State Certification Licensure Levels
  - D04\_02 EMS Unit Call Sign
  - D04\_04 Procedures
  - D04\_05 Personnel Level Permitted to Use the Procedure
  - D04\_06 Medications Given
  - D04\_07 Personnel Level Permitted to Use the Medication
  - D04\_08 Protocol
  - D04\_09 Personnel Level Permitted to Use the Protocol
  - D04\_10 Billing Status
  - D04\_11 Hospitals Served
  - D04\_13 Other Destinations
  - D04\_15 Destination Type
  - D04\_17 EMD Vendor
  - D05\_01 Station Name
  - D05\_02 Station Number
  - D05\_03 Station Zone
  - D05\_04 Station GPS
  - D05\_05 Station Address
  - D05\_06 Station City
  - D05\_07 Station State
  - D05\_08 Station Zip
  - D05\_09 Station Telephone Number
  - D06\_01 Unit/Vehicle Number
  - D06\_03 Vehicle Type
  - D06\_07 Vehicle Model Year
  - D07\_02 State/Licensure ID Number
  - D07\_03 Personnel's Employment Status
  - D08\_01 EMS Personnel's Last Name
  - D08\_03 EMS Personnel's First Name
- (7) The minimum required Patient Care Report data elements that must be reported under this rule include the following NEMSIS EMSDataSet elements:
- E01\_01 Patient Care Report Number
  - E01\_02 Software Creator
  - E01\_03 Software Name
  - E01\_04 Software Version
  - E02\_01 EMS Agency Number
  - E02\_02 Incident Number
  - E02\_04 Type of Service Requested
  - E02\_05 Primary Role of the Unit

<del>E02_06 Type of Dispatch Delay</del>	<del>E09_06 Duration of Chief Complaint</del>
<del>E02_07 Type of Response Delay</del>	<del>E09_07 Time Units of Duration of Chief Complaint</del>
<del>E02_08 Type of Scene Delay</del>	<del>E09_11 Chief Complaint Anatomic Location</del>
<del>E02_09 Type of Transport Delay</del>	<del>E09_12 Chief Complaint Organ System</del>
<del>E02_10 Type of Turn-Around Delay</del>	<del>E09_13 Primary Symptom</del>
<del>E02_12 EMS Unit Call Sign (Radio Number)</del>	<del>E09_14 Other Associated Symptoms</del>
<del>E02_20 Response Mode to Scene</del>	<del>E09_15 Providers Primary Impression</del>
<del>E03_01 Complaint Reported by Dispatch</del>	<del>E09_16 Provider's Secondary Impression</del>
<del>E03_02 EMD Performed</del>	<del>E10_01 Cause of Injury</del>
<del>E04_01 Crew Member ID</del>	<del>E10_02 Intent of the Injury</del>
<del>E05_01 Incident or Onset Date/Time</del>	<del>E10_03 Mechanism of Injury</del>
<del>E05_02 PSAP Call Date/Time</del>	<del>E10_04 Vehicular Injury Indicators</del>
<del>E05_03 Dispatch Notified Date/Time</del>	<del>E10_05 Area of the Vehicle impacted by the collision</del>
<del>E05_04 Unit Notified by Dispatch Date/Time</del>	<del>E10_06 Seat Row Location of Patient in Vehicle</del>
<del>E05_05 Unit En Route Date/Time</del>	<del>E10_07 Position of Patient in the Seat of the Vehicle</del>
<del>E05_06 Unit Arrived on Scene Date/Time</del>	<del>E10_08 Use of Occupant Safety Equipment</del>
<del>E05_07 Arrived at Patient Date/Time</del>	<del>E10_09 Airbag Deployment</del>
<del>E05_08 Transfer of Patient Care Date/Time</del>	<del>E10_10 Height of Fall</del>
<del>E05_09 Unit Left Scene Date/Time</del>	<del>E11_01 Cardiac Arrest</del>
<del>E05_10 Patient Arrived at Destination Date/Time</del>	<del>E11_02 Cardiac Arrest Etiology</del>
<del>E05_11 Unit Back in Service Date/Time</del>	<del>E11_03 Resuscitation Attempted</del>
<del>E05_12 Unit Cancelled Date/Time</del>	<del>E11_04 Arrest Witnessed by</del>
<del>E05_13 Unit Back at Home Location Date/Time</del>	<del>E11_05 First Monitored Rhythm of the Patient</del>
<del>E06_01 Last Name</del>	<del>E11_06 Any Return of Spontaneous Circulation</del>
<del>E06_02 First Name</del>	<del>E11_08 Estimated Time of Arrest Prior to EMS Arrival</del>
<del>E06_03 Middle Initial/Name</del>	<del>E11_10 Reason CPR Discontinued</del>
<del>E06_04 Patient's Home Address</del>	<del>E12_01 Barriers to Patient Care</del>
<del>E06_05 Patient's Home City</del>	<del>E12_08 Medication Allergies</del>
<del>E06_06 Patient's Home County</del>	<del>E12_14 Current Medications</del>
<del>E06_07 Patient's Home State</del>	<del>E12_18 Presence of Emergency Information Form</del>
<del>E06_08 Patient's Home Zip Code</del>	<del>E12_19 Alcohol/Drug Use Indicators</del>
<del>E06_09 Patient's Home Country</del>	<del>E12_20 Pregnancy</del>
<del>E06_10 Social Security Number</del>	<del>E13_01 Run Report Narrative</del>
<del>E06_11 Gender</del>	<del>E14_01 Date/Time Vital Signs Taken</del>
<del>E06_12 Race</del>	<del>E14_02 Obtained Prior to this Units EMS Care</del>
<del>E06_13 Ethnicity</del>	<del>E14_03 Cardiac Rhythm</del>
<del>E06_14 Age</del>	<del>E14_04 SBP (Systolic Blood Pressure)</del>
<del>E06_15 Age Units</del>	<del>E14_05 DBP (Diastolic Blood Pressure)</del>
<del>E06_16 Date of Birth</del>	<del>E14_07 Pulse Rate</del>
<del>E06_17 Primary or Home Telephone Number</del>	<del>E14_09 Pulse Oximetry</del>
<del>E07_01 Primary Method of Payment</del>	<del>E14_10 Pulse Rhythm</del>
<del>E07_15 Work-Related</del>	<del>E14_11 Respiratory Rate</del>
<del>E07_16 Patient's Occupational Industry</del>	<del>E14_14 Blood Glucose Level</del>
<del>E07_17 Patient's Occupation</del>	<del>E14_15 Glasgow Coma Score-Eye</del>
<del>E07_34 CMS Service Level</del>	<del>E14_16 Glasgow Coma Score-Verbal</del>
<del>E07_35 Condition Code Number</del>	<del>E14_17 Glasgow Coma Score-Motor</del>
<del>E08_05 Number of Patients at Scene</del>	<del>E14_18 Glasgow Coma Score-Qualifier</del>
<del>E08_06 Mass Casualty Incident</del>	<del>E14_19 Total Glasgow Coma Score</del>
<del>E08_07 Incident Location Type</del>	<del>E14_20 Temperature</del>
<del>E08_11 Incident Address</del>	<del>E14_22 Level of Responsiveness</del>
<del>E08_12 Incident City</del>	<del>E14_24 Stroke Scale</del>
<del>E08_13 Incident County</del>	<del>E14_26 APGAR</del>
<del>E08_14 Incident State</del>	<del>E14_27 Revised Trauma Score</del>
<del>E08_15 Incident ZIP Code</del>	<del>E14_28 Pediatric Trauma Score</del>
<del>E09_01 Prior Aid</del>	<del>E15_01 NHTSA Injury Matrix External/Skin</del>
<del>E09_02 Prior Aid Performed by</del>	<del>E15_02 NHTSA Injury Matrix Head</del>
<del>E09_03 Outcome of the Prior Aid</del>	<del>E15_03 NHTSA Injury Matrix Face</del>
<del>E09_04 Possible Injury</del>	<del>E15_04 NHTSA Injury Matrix Neck</del>
<del>E09_05 Chief Complaint</del>	<del>E15_05 NHTSA Injury Matrix Thorax</del>



- ~~E15\_06 NHTSA Injury Matrix Abdomen~~
- ~~E15\_07 NHTSA Injury Matrix Spine~~
- ~~E15\_08 NHTSA Injury Matrix Upper Extremities~~
- ~~E15\_09 NHTSA Injury Matrix Pelvis~~
- ~~E15\_10 NHTSA Injury Matrix Lower Extremities~~
- ~~E15\_11 NHTSA Injury Matrix Unspecified~~
- ~~E16\_01 Estimated Body Weight~~
- ~~E16\_02 Broselow/Luten Color~~
- ~~E16\_03 Date/Time of Assessment~~
- ~~E16\_04 Skin Assessment~~
- ~~E16\_05 Head/Face Assessment~~
- ~~E16\_06 Neck Assessment~~
- ~~E16\_07 Chest/Lungs Assessment~~
- ~~E16\_08 Heart Assessment~~
- ~~E16\_09 Abdomen Left Upper Assessment~~
- ~~E16\_10 Abdomen Left Lower Assessment~~
- ~~E16\_11 Abdomen Right Upper Assessment~~
- ~~E16\_12 Abdomen Right Lower Assessment~~
- ~~E16\_13 GU Assessment~~
- ~~E16\_14 Back Cervical Assessment~~
- ~~E16\_15 Back Thoracic Assessment~~
- ~~E16\_16 Back Lumbar/Sacral Assessment~~
- ~~E16\_17 Extremities Right Upper Assessment~~
- ~~E16\_18 Extremities Right Lower Assessment~~
- ~~E16\_19 Extremities Left Upper Assessment~~
- ~~E16\_20 Extremities Left Lower Assessment~~
- ~~E16\_21 Eyes Left Assessment~~
- ~~E16\_22 Eyes Right Assessment~~
- ~~E16\_23 Mental Status Assessment~~
- ~~E16\_24 Neurological Assessment~~
- ~~E18\_01 Date/Time Medication Administered~~
- ~~E18\_02 Medication Administered Prior to this Units EMS Care~~
- ~~E18\_03 Medication Given~~
- ~~E18\_04 Medication Administered Route~~
- ~~E18\_05 Medication Dosage~~
- ~~E18\_06 Medication Dosage Units~~
- ~~E18\_07 Response to Medication~~
- ~~E18\_08 Medication Complication~~
- ~~E18\_09 Medication Crew Member ID~~
- ~~E18\_10 Medication Authorization~~
- ~~E19\_01 Date/Time Procedure Performed Successfully~~
- ~~E19\_03 Procedure~~
- ~~E19\_04 Size of Procedure Equipment~~
- ~~E19\_05 Number of Procedure Attempts~~
- ~~E19\_06 Procedure Successful~~
- ~~E19\_07 Procedure Complication~~
- ~~E19\_08 Response to Procedure~~
- ~~E19\_09 Procedure Crew Members ID~~
- ~~E19\_10 Procedure Authorization~~
- ~~E19\_12 Successful IV Site~~
- ~~E19\_13 Tube Confirmation~~
- ~~E19\_14 Destination Confirmation of Tube Placement~~
- ~~E20\_01 Destination/Transferred To, Name~~
- ~~E20\_03 Destination Street Address~~
- ~~E20\_04 Destination City~~
- ~~E20\_05 Destination State~~
- ~~E20\_06 Destination County~~
- ~~E20\_07 Destination Zip Code~~

- ~~E20\_10 Incident/Patient Disposition~~
  - ~~E20\_14 Transport Mode from Scene~~
  - ~~E20\_15 Condition of Patient at Destination~~
  - ~~E20\_16 Reason for Choosing Destination~~
  - ~~E20\_17 Type of Destination~~
  - ~~E22\_01 Emergency Department Disposition~~
  - ~~E22\_02 Hospital Disposition~~
  - ~~E23\_03 Personal Protective Equipment Used~~
  - ~~E23\_09 Research Survey Field~~
  - ~~E23\_10 Who Generated this Report?~~
  - ~~E23\_11 Research Survey Field Title~~
  - ~~(8) Emergency Medical Services Providers shall use elements E23\_09 and E23\_11 to report biosurveillance indicators. When any of the following indicators are present in an incident, the Emergency Medical Services Provider shall provide an instance of E23\_09 and E23\_11, with E23\_09 set to "true" and E23\_11 set to one of the following:~~
    - ~~B01\_01 Abdominal Pain~~
    - ~~B01\_02 Altered Level of Consciousness~~
    - ~~B01\_03 Apparent Death~~
    - ~~B01\_04 Bloody Diarrhea~~
    - ~~B01\_05 Fever~~
    - ~~B01\_06 Headache~~
    - ~~B01\_07 Inhalation~~
    - ~~B01\_08 Rash/Blistering~~
    - ~~B01\_09 Nausea/Vomiting~~
    - ~~B01\_10 Paralysis~~
    - ~~B01\_11 Respiratory Arrest~~
    - ~~B01\_12 Respiratory Distress~~
    - ~~B01\_13 Seizures~~
  - ~~(9) Emergency Medical Services Providers are not required to submit other NEMSIS data elements but may optionally do so. Emergency Medical Services Providers may also use additional instances of E23\_09 and E23\_11 for their own purposes.~~
  - ~~(10) For each patient transported to a licensed acute care facility or a specialty hospital with an emergency department, each responding emergency medical services provider unit that cared for the patient during the incident shall provide a report of patient status, containing information critical to the ongoing care of the patient, to the receiving facility within one hour after the patient arrives at the receiving facility in at least one of the following formats:~~
    - ~~(a) NEMSIS XML; or~~
    - ~~(b) Paper form.~~
  - ~~(11) For each patient transported to a licensed acute care facility or a specialty hospital with an emergency department, the receiving facility shall provide at least the following information to each Emergency Medical Services Provider that cared for the patient, upon request by the Emergency Medical Services Provider:~~
    - ~~(a) the patient's emergency department disposition; and~~
    - ~~(b) the patient's hospital disposition.~~
- R426-7-4. ED Data Set.**
- ~~(1) All hospitals licensed in Utah shall provide patient data as identified by the Department.~~
  - ~~(2) This data shall be submitted at least quarterly to the Department. Corporate submittal is preferred.~~
  - ~~(3) The data must be submitted in an electronic format determined and approved by the Department.~~

~~(4) If the Department determines that there are errors in the data, it may return the data to the data supplier for corrections. The data supplier shall correct the data and resubmit it to the Department within 30 days of receipt from the Department. If data is returned to the hospital for corrections, the hospital is not in compliance with this rule until corrected data is returned, accepted and approved by the Department.~~

~~(5) The minimum required data elements include:~~

~~Unique Patient Control Number  
Record Type  
Provider Identifier (hospital)  
Patient Social Security Number  
Patient Control Number  
Type of Bill  
Patient Name  
Patient's Address (postal zip code)  
Patient Date of Birth  
Patient's Gender  
Admission Date  
Admission Hour  
Discharge Hour  
Discharge Status  
Disposition from Hospital  
Patient's Medical Record Number  
Revenue Code 1 ("001" sum of all charges)  
Total Charges by Revenue Code 1 ("001" last total Charge Field, is sum)  
Revenue Code 2 ("450" used for record selection)  
Total Charges by Revenue Code 2 (Charges associated with code 450)  
Primary Payer Identification  
Estimated Amount Due  
Secondary Payer Identification  
Estimated Amount Due  
Tertiary Payer Identification  
Estimated Amount Due  
Patient Estimated Amount Due  
Principal Diagnosis Code  
Secondary Diagnosis Code 1  
Secondary Diagnosis Code 2  
Secondary Diagnosis Code 3  
Secondary Diagnosis Code 4  
Secondary Diagnosis Code 5  
Secondary Diagnosis Code 6  
Secondary Diagnosis Code 7  
Secondary Diagnosis Code 8  
External Cause of Injury Code (E-Code)  
Procedure Coding Method Used  
Principal Procedure  
Secondary Procedure 1  
Secondary Procedure 2  
Secondary Procedure 3  
Secondary Procedure 4, and  
Secondary Procedure 5~~

**~~R426-7-5. Penalty for Violation of Rule.~~**

~~As required by Section 63G-3-201(5): Any person or agency who violates any provision of this rule, per incident, may be assessed a penalty as provided in Section 26-23-6.]~~

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

**R426-7-1. Authority and Purpose.**

(1) This rule is established under Title 26 Chapter 8a.  
(2) The purpose of this rule is to establish minimum mandatory EMS data reporting requirements.

**R426-7-2. Prehospital Data Set.**

(1) Emergency medical service providers shall collect data as identified by the Department in this rule.  
(2) Emergency Medical Services Providers shall submit the data to the Department electronically in the National Emergency Medical Services Information System (NEMSIS) format. For Emergency Medical Services Providers directly using a reporting system provided by the Department, the data is considered submitted to the Department as soon as it has been entered or updated in the Department-provided system.  
(3) Emergency Medical Services Providers shall submit NEMSIS Demographic data elements within 30 days after the end of each calendar quarter in the format defined in the NEMSIS EMSDemographicDataSet. Some data may change less frequently than quarterly, but Emergency Medical Services Providers shall submit all required data elements quarterly regardless of whether the data have changed.  
(4) Emergency Medical Services Providers shall submit NEMSIS EMS incident data elements for each Patient Care Report within 30 days of the end of the month in which the EMS incident occurred, in the format defined in the NEMSIS EMSDataSet.  
(5) If the Department determines that there are errors in the data, it may ask the data supplier for corrections. The data supplier shall correct the data and resubmit it to the Department within 30 days of receipt from the Department. If data is returned to the supplier for corrections, the Emergency Medical Services Provider is not in compliance with this rule until corrected data is returned, accepted and approved by the Department.  
(6) The minimum required demographic data elements that must be reported under this rule include the following NEMSIS EMSDemographicDataSet elements:

<u>D01_01</u>	<u>EMS Agency Number</u>
<u>D01_02</u>	<u>EMS Agency Name</u>
<u>D01_03</u>	<u>EMS Agency State</u>
<u>D01_04</u>	<u>EMS Agency County</u>
<u>D01_05</u>	<u>Primary Type of Service</u>
<u>D01_06</u>	<u>Other Types of Service</u>
<u>D01_07</u>	<u>Level of Service</u>
<u>D01_08</u>	<u>Organizational Type</u>
<u>D01_09</u>	<u>Organization Status</u>
<u>D01_10</u>	<u>Statistical Year</u>
<u>D01_11</u>	<u>Other Agencies In Area</u>
<u>D01_12</u>	<u>Total Service Size Area</u>
<u>D01_13</u>	<u>Total Service Area Population</u>
<u>D01_14</u>	<u>911 Call Volume per Year</u>
<u>D01_15</u>	<u>EMS Dispatch Volume per Year</u>
<u>D01_16</u>	<u>EMS Transport Volume per Year</u>
<u>D01_17</u>	<u>EMS Patient Contact Volume per Year</u>
<u>D01_18</u>	<u>EMS Billable Calls per Year</u>
<u>D01_19</u>	<u>EMS Agency Time Zone</u>
<u>D01_20</u>	<u>EMS Agency Daylight Savings Time Use</u>
<u>D01_21</u>	<u>National Provider Identifier</u>

- D02\_01 Agency Contact Last Name
- D02\_02 Agency Contact Middle Name/Initial
- D02\_03 Agency Contact First Name
- D02\_04 Agency Contact Address
- D02\_05 Agency Contact City
- D02\_06 Agency Contact State
- D02\_07 Agency Contact Zip Code
- D02\_08 Agency Contact Telephone Number
- D02\_09 Agency Contact Fax Number
- D02\_10 Agency Contact Email Address
- D02\_11 Agency Contact Web Address
- D03\_01 Agency Medical Director Last Name
- D03\_02 Agency Medical Director Middle Name/Initial
- D03\_03 Agency Medical Director First Name
- D03\_04 Agency Medical Director Address
- D03\_05 Agency Medical Director City
- D03\_06 Agency Medical Director State
- D03\_07 Agency Medical Director Zip Code
- D03\_08 Agency Medical Director Telephone Number
- D03\_09 Agency Medical Director Fax Number
- D03\_10 Agency Medical Director's Medical Specialty
- D03\_11 Agency Medical Director Email Address
- D04\_01 State Certification Licensure Levels
- D04\_02 EMS Unit Call Sign
- D04\_04 Procedures
- D04\_05 Personnel Level Permitted to Use the Procedure
- D04\_06 Medications Given
- D04\_07 Personnel Level Permitted to Use the Medication
- D04\_08 Protocol
- D04\_09 Personnel Level Permitted to Use the Protocol
- D04\_10 Billing Status
- D04\_11 Hospitals Served
- D04\_13 Other Destinations
- D04\_15 Destination Type
- D04\_17 EMD Vendor
- D05\_01 Station Name
- D05\_02 Station Number
- D05\_03 Station Zone
- D05\_04 Station GPS
- D05\_05 Station Address
- D05\_06 Station City
- D05\_07 Station State
- D05\_08 Station Zip
- D05\_09 Station Telephone Number
- D06\_01 Unit/Vehicle Number
- D06\_03 Vehicle Type
- D06\_07 Vehicle Model Year
- D07\_02 State/Licensure ID Number
- D07\_03 Personnel's Employment Status
- D08\_01 EMS Personnel's Last Name
- D08\_03 EMS Personnel's First Name
- (7) The minimum required Patient Care Report data elements that must be reported under this rule include the following NEMSIS EMSDataSet elements:
- E01\_01 Patient Care Report Number
- E01\_02 Software Creator
- E01\_03 Software Name
- E01\_04 Software Version
- E02\_01 EMS Agency Number

- E02\_02 Incident Number
- E02\_04 Type of Service Requested
- E02\_05 Primary Role of the Unit
- E02\_06 Type of Dispatch Delay
- E02\_07 Type of Response Delay
- E02\_08 Type of Scene Delay
- E02\_09 Type of Transport Delay
- E02\_10 Type of Turn-Around Delay
- E02\_12 EMS Unit Call Sign (Radio Number)
- E02\_20 Response Mode to Scene
- E03\_01 Complaint Reported by Dispatch
- E03\_02 EMD Performed
- E04\_01 Crew Member ID
- E05\_01 Incident or Onset Date/Time
- E05\_02 PSAP Call Date/Time
- E05\_03 Dispatch Notified Date/Time
- E05\_04 Unit Notified by Dispatch Date/Time
- E05\_05 Unit En Route Date/Time
- E05\_06 Unit Arrived on Scene Date/Time
- E05\_07 Arrived at Patient Date/Time
- E05\_08 Transfer of Patient Care Date/Time
- E05\_09 Unit Left Scene Date/Time
- E05\_10 Patient Arrived at Destination Date/Time
- E05\_11 Unit Back in Service Date/Time
- E05\_12 Unit Cancelled Date/Time
- E05\_13 Unit Back at Home Location Date/Time
- E06\_01 Last Name
- E06\_02 First Name
- E06\_03 Middle Initial/Name
- E06\_04 Patient's Home Address
- E06\_05 Patient's Home City
- E06\_06 Patient's Home County
- E06\_07 Patient's Home State
- E06\_08 Patient's Home Zip Code
- E06\_09 Patient's Home Country
- E06\_10 Social Security Number
- E06\_11 Gender
- E06\_12 Race
- E06\_13 Ethnicity
- E06\_14 Age
- E06\_15 Age Units
- E06\_16 Date of Birth
- E06\_17 Primary or Home Telephone Number
- E07\_01 Primary Method of Payment
- E07\_15 Work-Related
- E07\_16 Patient's Occupational Industry
- E07\_17 Patient's Occupation
- E07\_34 CMS Service Level
- E07\_35 Condition Code Number
- E08\_05 Number of Patients at Scene
- E08\_06 Mass Casualty Incident
- E08\_07 Incident Location Type
- E08\_11 Incident Address
- E08\_12 Incident City
- E08\_13 Incident County
- E08\_14 Incident State
- E08\_15 Incident ZIP Code
- E09\_01 Prior Aid
- E09\_02 Prior Aid Performed by

<u>E09_03 Outcome of the Prior Aid</u>	<u>E15_03 NHTSA Injury Matrix Face</u>
<u>E09_04 Possible Injury</u>	<u>E15_04 NHTSA Injury Matrix Neck</u>
<u>E09_05 Chief Complaint</u>	<u>E15_05 NHTSA Injury Matrix Thorax</u>
<u>E09_06 Duration of Chief Complaint</u>	<u>E15_06 NHTSA Injury Matrix Abdomen</u>
<u>E09_07 Time Units of Duration of Chief Complaint</u>	<u>E15_07 NHTSA Injury Matrix Spine</u>
<u>E09_11 Chief Complaint Anatomic Location</u>	<u>E15_08 NHTSA Injury Matrix Upper Extremities</u>
<u>E09_12 Chief Complaint Organ System</u>	<u>E15_09 NHTSA Injury Matrix Pelvis</u>
<u>E09_13 Primary Symptom</u>	<u>E15_10 NHTSA Injury Matrix Lower Extremities</u>
<u>E09_14 Other Associated Symptoms</u>	<u>E15_11 NHTSA Injury Matrix Unspecified</u>
<u>E09_15 Providers Primary Impression</u>	<u>E16_01 Estimated Body Weight</u>
<u>E09_16 Provider's Secondary Impression</u>	<u>E16_02 Broselow/Luten Color</u>
<u>E10_01 Cause of Injury</u>	<u>E16_03 Date/Time of Assessment</u>
<u>E10_02 Intent of the Injury</u>	<u>E16_04 Skin Assessment</u>
<u>E10_03 Mechanism of Injury</u>	<u>E16_05 Head/Face Assessment</u>
<u>E10_04 Vehicular Injury Indicators</u>	<u>E16_06 Neck Assessment</u>
<u>E10_05 Area of the Vehicle impacted by the collision</u>	<u>E16_07 Chest/Lungs Assessment</u>
<u>E10_06 Seat Row Location of Patient in Vehicle</u>	<u>E16_08 Heart Assessment</u>
<u>E10_07 Position of Patient in the Seat of the Vehicle</u>	<u>E16_09 Abdomen Left Upper Assessment</u>
<u>E10_08 Use of Occupant Safety Equipment</u>	<u>E16_10 Abdomen Left Lower Assessment</u>
<u>E10_09 Airbag Deployment</u>	<u>E16_11 Abdomen Right Upper Assessment</u>
<u>E10_10 Height of Fall</u>	<u>E16_12 Abdomen Right Lower Assessment</u>
<u>E11_01 Cardiac Arrest</u>	<u>E16_13 GU Assessment</u>
<u>E11_02 Cardiac Arrest Etiology</u>	<u>E16_14 Back Cervical Assessment</u>
<u>E11_03 Resuscitation Attempted</u>	<u>E16_15 Back Thoracic Assessment</u>
<u>E11_04 Arrest Witnessed by</u>	<u>16_16 Back Lumbar/Sacral Assessment</u>
<u>E11_05 First Monitored Rhythm of the Patient</u>	<u>E16_17 Extremities-Right Upper Assessment</u>
<u>E11_06 Any Return of Spontaneous Circulation</u>	<u>E16_18 Extremities-Right Lower Assessment</u>
<u>E11_08 Estimated Time of Arrest Prior to EMS Arrival</u>	<u>E16_19 Extremities-Left Upper Assessment</u>
<u>E11_10 Reason CPR Discontinued</u>	<u>E16_20 Extremities-Left Lower Assessment</u>
<u>E12_01 Barriers to Patient Care</u>	<u>E16_21 Eyes-Left Assessment</u>
<u>E12_08 Medication Allergies</u>	<u>E16_22 Eyes-Right Assessment</u>
<u>E12_14 Current Medications</u>	<u>E16_23 Mental Status Assessment</u>
<u>E12_18 Presence of Emergency Information Form</u>	<u>E16_24 Neurological Assessment</u>
<u>E12_19 Alcohol/Drug Use Indicators</u>	<u>E18_01 Date/Time Medication Administered</u>
<u>E12_20 Pregnancy</u>	<u>E18_02 Medication Administered Prior to this Units EMS</u>
<u>E13_01 Run Report Narrative</u>	<u>Care</u>
<u>E14_01 Date/Time Vital Signs Taken</u>	<u>E18_03 Medication Given</u>
<u>E14_02 Obtained Prior to this Units EMS Care</u>	<u>E18_04 Medication Administered Route</u>
<u>E14_03 Cardiac Rhythm</u>	<u>E18_05 Medication Dosage</u>
<u>E14_04 SBP (Systolic Blood Pressure)</u>	<u>E18_06 Medication Dosage Units</u>
<u>E14_05 DBP (Diastolic Blood Pressure)</u>	<u>E18_07 Response to Medication</u>
<u>E14_07 Pulse Rate</u>	<u>E18_08 Medication Complication</u>
<u>E14_09 Pulse Oximetry</u>	<u>E18_09 Medication Crew Member ID</u>
<u>E14_10 Pulse Rhythm</u>	<u>E18_10 Medication Authorization</u>
<u>E14_11 Respiratory Rate</u>	<u>E19_01 Date/Time Procedure Performed Successfully</u>
<u>E14_14 Blood Glucose Level</u>	<u>E19_03 Procedure</u>
<u>E14_15 Glasgow Coma Score-Eye</u>	<u>E19_04 Size of Procedure Equipment</u>
<u>E14_16 Glasgow Coma Score-Verbal</u>	<u>E19_05 Number of Procedure Attempts</u>
<u>E14_17 Glasgow Coma Score-Motor</u>	<u>E19_06 Procedure Successful</u>
<u>E14_18 Glasgow Coma Score-Qualifier</u>	<u>E19_07 Procedure Complication</u>
<u>E14_19 Total Glasgow Coma Score</u>	<u>E19_08 Response to Procedure</u>
<u>E14_20 Temperature</u>	<u>E19_09 Procedure Crew Members ID</u>
<u>E14_22 Level of Responsiveness</u>	<u>E19_10 Procedure Authorization</u>
<u>E14_24 Stroke Scale</u>	<u>E19_12 Successful IV Site</u>
<u>E14_26 APGAR</u>	<u>E19_13 Tube Confirmation</u>
<u>E14_27 Revised Trauma Score</u>	<u>E19_14 Destination Confirmation of Tube Placement</u>
<u>E14_28 Pediatric Trauma Score</u>	<u>E20_01 Destination/Transferred To, Name</u>
<u>E15_01 NHTSA Injury Matrix External/Skin</u>	<u>E20_03 Destination Street Address</u>
<u>E15_02 NHTSA Injury Matrix Head</u>	<u>E20_04 Destination City</u>

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

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

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

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

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

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

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

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

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

(1) All hospitals licensed in Utah shall provide patient data as identified by the Department.

(2) This data shall be submitted at least quarterly to the Department. Corporate submittal is preferred.

(3) The data must be submitted in an electronic format determined and approved by the Department.

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

(5) The minimum required data elements include:

- Unique Patient Control Number
- Record Type
- Provider Identifier (hospital)
- Patient Social Security Number
- Patient Control Number
- Type of Bill
- Patient Name
- Patient's Address (postal zip code)
- Patient Date of Birth
- Patient's Gender
- Admission Date
- Admission Hour
- Discharge Hour
- Discharge Status
- Disposition from Hospital
- Patient's Medical Record Number
- Revenue Code 1 ("001" sum of all charges)
- Total Charges by Revenue Code 1 ("001" last total Charge Field, is sum)
- Revenue Code 2 ("450" used for record selection)
- Total Charges by Revenue Code 2 (Charges associated with code 450)
- Primary Payer Identification
- Estimated Amount Due
- Secondary Payer Identification
- Estimated Amount Due
- Tertiary Payer Identification
- Estimated Amount Due
- Patient Estimated Amount Due
- Principal Diagnosis Code
- Secondary Diagnosis Code 1
- Secondary Diagnosis Code 2
- Secondary Diagnosis Code 3
- Secondary Diagnosis Code 4
- Secondary Diagnosis Code 5
- Secondary Diagnosis Code 6
- Secondary Diagnosis Code 7
- Secondary Diagnosis Code 8
- External Cause of Injury Code (E-Code)
- Procedure Coding Method Used
- Principal Procedure
- Secondary Procedure 1
- Secondary Procedure 2
- Secondary Procedure 3
- Secondary Procedure 4, and
- Secondary Procedure 5

**R426-7-4. Penalty for Violation of Rule.**

As required by Section 63G-3-201(5): Any person or agency who violates any provision of this rule, per incident, may be assessed a penalty as provided in Section 26-23-6.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: [March 15, 2010] 2013**

**Notice of Continuation: January 12, 2011**

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

## Health, Family Health and Preparedness, Emergency Medical Services

### R426-8

## Emergency Medical Services Per Capita Grants Program Rules

### NOTICE OF PROPOSED RULE

(Repeal and Reenact)  
DAR FILE NO.: 37688  
FILED: 06/04/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This repealed and reenacted rule is in response to the Governor's mandate for rule review and simplification. This proposed repeal and reenactment is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation. Rates are revised as determined by the fiscal reporting and viability of ground ambulance service providers. Changes reflect market conditions that are used for determining maximum allowable charges to patients.

**SUMMARY OF THE RULE OR CHANGE:** The repeal includes current rules for per capita grants program. The reenacted Rule R426-8 will include the rates process and allowable billing rates for ground ambulance services. The current rates rules from Rule R426-16 are the basis for the changes reflected in the proposed Rule R426-8. (DAR NOTE: The proposed repeal of Rule R426-16 is under DAR No. 37695 in this issue, July 1, 2013, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No anticipated fiscal impact for state budgets because there are no changes in the existing rule requirements that are imposed by these amendments.

◆ **LOCAL GOVERNMENTS:** Fiscal impact for local governments that administer ground ambulance services will be positive due to billing increases used to off-set increased operational costs.

◆ **SMALL BUSINESSES:** Fiscal impact for small businesses that administer ground ambulance services will be positive due to billing increases used to off-set increased operational costs.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Fiscal impacts for other persons including patients may be increased to off-set ground ambulance operational costs.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated compliance costs for affected persons because there are no changes in the existing rule requirements that are imposed by these amendments.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This will have a positive impact on business because it helps insure adequate revenue for providers.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at [gdansie@utah.gov](mailto:gdansie@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013**

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

### **R426. Health, Family Health and Preparedness, Emergency Medical Services.**

#### ~~[R426-8. Emergency Medical Services Per Capita Grants Program Rules.~~

#### ~~R426-8-1. Authority and Purpose.~~

- ~~(1) This rule is established under Title 26 chapter 8a.~~  
~~(2) The purpose of this rule provides guidelines for the equitable distribution of per capita grant funds specified under the Emergency Medical Services (EMS) Grants Program.~~

#### ~~R426-8-2. Definitions.~~

- ~~(1) County EMS Council or Committee means a group of persons recognized by the county commission as the legitimate entity within the county to formulate policy regarding the provision of EMS.~~

~~(2) Multi-county EMS council or committee means a group of persons recognized by an association of counties as the legitimate entity within the association to formulate policy regarding the provision of EMS.~~

**R426-8-3. Eligibility.**

~~(1) Per capita grants are available only to licensed EMS ambulance services, paramedic services, EMS designated first response units and EMS dispatch providers that are either:~~

~~(a) agencies or political subdivisions of local or state government or incorporated non-profit entities; or~~

~~(b) for-profit EMS providers that are the primary EMS provider for a service area.~~

~~(2)(a) A for-profit EMS provider is a primary EMS provider in a geographical service area if it is licensed for and provides service at a higher level than the public or non-profit provider;~~

~~(b) The levels of EMS providers are in this rank order:~~

~~(A) Paramedic rescue;~~

~~(B) Paramedic ambulance;~~

~~(C) EMT-Intermediate;~~

~~(D) EMT-IV; and~~

~~(E) EMT-Basic.~~

~~(c) Paramedic interfacility transfer ambulance, EMT-Interfacility ambulance transport, or paramedic tactical-rescue units are not eligible for per capita funding because they cannot be the primary EMS provider for a geographical service area.~~

~~(3) Grantees must be in compliance with the EMS Systems Act and all EMS rules during the grant period.~~

~~(4) An applicant that is six months or more in arrears in payments owed to the Department is ineligible for competitive grant consideration.~~

**R426-8-4. Grant Implementation.**

~~(1) Per Capita grants are available for use specifically related to the provision of EMS.~~

~~(2) Grant awards are effective on July 1 and must be used by June 30 of the following year. No extensions will be given.~~

~~(3) Grant funding is on a reimbursable basis after presentation of documentation of expenditures which are in accordance with the approved grant awards budget.~~

~~(4) No matching funds are required for per capita grants.~~

~~(5) Per capita funds may be used as matching funds for competitive grants.~~

**R426-8-5. Application and Award Formula.**

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

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

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

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

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

~~(3) The Department shall allocate funds by using the following point totals for agency-certified personnel: certified Dispatchers = 1; certified Basic EMTs = 2; certified Intermediate EMTs and Intermediate-Advanced EMTs = 3; and certified Paramedics = 4. The number of certified personnel is based upon the personnel rosters of each licensed EMS provider, designated EMS dispatch agency and designated EMS first response unit as a date as specified by the Department immediately prior to the grant year, which begins July 1. To comply with Legislative intent, the point totals of each eligible agency will be multiplied by the current county classification as provided under Section 17-50-501.]~~

**R426-8. Emergency Medical Services Ambulance Rates and Charges.**

**R426-8-1. Authority and Purpose.**

(1) This rule is established under Title 26, Chapter 8a.

(2) The purpose of this rule is to provide for the establishment of maximum ambulance transportation and rates to be charged by licensed ambulance services in the State of Utah.

**R426-8-2. Ambulance Transportation Rates and Charges.**

(1) Licensed services operating under R426-3 shall not charge more than the rates described in this rule. In addition, the net income of licensed services, including subsidies of any type, shall not exceed the net income limit set by this rule.

(a) The net income limit shall be the greater of eight percent of gross revenue or 14 percent return on average assets.

(b) Licensed Services may change rates at their discretion after notifying the Department, provided that the rates do not exceed the maximums specified in this rule.

(c) An agency may not charge a transportation fee for patients who are not transported.

(2) The initial regulated rates established in this rule shall be adjusted annually on July 1, based on financial data as delineated by the department to be submitted as detailed under R426-8-2(9). This data shall then be used as the basis for the annual rate adjustment.

(3) Base Rates for ground transport to care facility -

(a) Ground Ambulance - \$615.00 per transport.

(b) Advanced EMT and EMT-IA Ground Ambulance - \$813.00 per transport.

(c) Paramedic Ground Ambulance - \$1,189.00 per transport.

(d) Ground Ambulance with Paramedic on-board - \$1,189.00 per transport if:

(i) a dispatch agency dispatches a paramedic licensee to treat the individual;

(ii) the paramedic licensee has initiated advanced life support;

(iii) on-line medical control directs that a paramedic remain with the patient during transport; and

(iv) an ambulance service that interfaces with a paramedic rescue service and has an interlocal or equivalent agreement in place, dealing with reimbursing the paramedic agency for services provided up to a maximum of \$253.71 per transport.

(4) Mileage Rate-

(a) \$31.65 per mile or fraction thereof.

(b) In all cases mileage shall be computed from the point of pickup to the point of delivery.

(c) A fuel fluctuation surcharge of \$0.25 per mile may be added when diesel fuel prices exceed \$5.10 per gallon or gasoline exceeds \$4.25 as invoiced.

(5) Surcharge-

(a) If the ambulance is required to travel for ten miles or more on unpaved roads, a surcharge of \$1.50 per mile may be assessed.

(6) Special Provisions -

(a) If more than one patient is transported from the same point of origin to the same point of delivery in the same ambulance, the charges to be assessed to each individual will be determined as follows:

(i) Each patient will be assessed the transportation rate.

(ii) The mileage rate will be computed as specified, the sum to be divided equally between the total number of patients.

(b) A round trip may be billed as two one-way trips.

(c) An ambulance shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and may charge \$22.05 per quarter hour or fraction thereof thereafter. On round trips, 30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the expiration of the 30 minutes, the ambulance service may charge \$22.05 per quarter hour or fraction thereof thereafter.

(7) Supplies and Medications -

(a) An ambulance licensee may charge for supplies and providing supplies, medications, and administering medications used on any response if:

(i) supplies shall be priced fairly and competitively with similar products in the local area;

(ii) the individual does not refuse services; and

(iii) the ambulance personnel assess or treats the individual.

(8) Uncontrollable Cost Escalation -

(a) In the event of a temporary escalation of costs, an ambulance service may petition the Department for permission to make a temporary service-specific surcharge. The petition shall specify the amount of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit.

(b) The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.

(9) Operating report -

(a) The licensed service shall file with the Department within 90 days of the end of each licensed service's fiscal year, an operating report in accordance with the instructions, guidelines and review criteria as specified by the Department. The Department shall provide a summary of operating reports received during the previous state fiscal year to the EMS Committee in the October quarterly meeting.

(10) Fiscal audits -

(a) Upon receipt of licensed service fiscal reports, the Department shall review them for compliance to standards established.

(b) Where the Department determines that the audited service is not in compliance with this rule, the Department shall proceed in accordance with Section 26-8a-504.

**R426-8-3. Penalty for Violation of Rule.**

As required by Subsection 63G-3-201(5): Any person that violates any provisions of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: [~~August 3, 2010~~2013**

**Notice of Continuation: January 5, 2011**

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

**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-9  
Statewide Trauma System Standards**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 37689

FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This new rule is in response to the Governor's mandate for rule review and simplification. This proposed new rule is part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** This new rule reflects updates for current rules in Rule R426-5 for the designation of a statewide trauma system. The new rule contains the process and criteria used to determine designation eligibility and level. It is a new rule due to the fact that there is not a current effective rule that has the number R426-9. (DAR NOTE: The proposed repeal and reenactment of Rule R426-5 is under DAR No. 37685 in this issue, July 1, 2013, of the Bulletin.)

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this new rule.

♦ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this new rule.

♦ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this new rule.



◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this new rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact to affected persons because there are no changes in the existing rule requirements that are imposed by this new rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No anticipated effect on business because the requirements are unchanged and the businesses use this data to help develop policy.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

**R426-9. Statewide Trauma System Standards.**

**R426-9-1. Authority and Purpose.**

(1) Authority - This rule is established under Title 26, Chapter 8a, 252, Statewide Trauma System, which authorizes the Department to:

(a) establish and actively supervise a statewide trauma system;

(b) establish, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility; and

(c) designate trauma care facilities consistent with the trauma center designation requirements and verification process.

(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of Trauma Centers to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

**R426-9-2. Trauma System Advisory Committee.**

(1) The trauma system advisory committee, created pursuant to 26-8a-251, shall:

(a) be a broad and balanced representation of healthcare providers and health care delivery systems; and

(b) conduct meetings in accordance with committee procedures established by the Department and applicable statutes.

(2) The Department shall appoint committee members to serve terms from one to four years.

(3) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.

(4) Causes for removal of a committee member include the following:

(a) more than two unexcused absences from meetings within 12 calendar months;

(b) more than three excused absences from meetings within 12 calendar months;

(c) conviction of a felony; or

(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

**R426-9-3. Trauma Center Categorization Guidelines.**

The Department adopts as criteria for Level I, Level II, Level III, and Pediatric trauma center designation, compliance with national standards published in the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 2006. The Department adopts as criteria for Level IV and Level V trauma center designation the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 1999, except that a Level V trauma center need not have a general surgeon on the medical staff and may be staffed by nurse practitioners or certified physician assistants.

**R426-9-4. Trauma Review.**

(1) The Department shall evaluate trauma centers and applicants to verify compliance with standards set in R426-9-3. In conducting each evaluation, the Department shall consult with experts from the following disciplines:

(a) trauma surgery;

(b) emergency medicine;

(c) emergency or critical care nursing; and

(d) hospital administration.

(2) A consultant shall not assist the Department in evaluating a facility in which the consultant is employed, practices, or has any financial interest.

**R426-9-5. Trauma Center Categorization Process.**

The Department shall:

- (1) Develop a survey document based upon the Trauma Center Criteria described in R426-9-3.
- (2) Periodically survey all Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.
- (3) Disseminate survey results to all Utah hospitals, and as appropriate, to state EMS agencies.

**R426-9-6. Trauma Center Designation Process.**

(1) Hospitals seeking voluntary designation and all designated Trauma Centers desiring to remain designated, shall apply for designation by submitting the following information to the Department at least 30 days prior to the date of the scheduled site visit:

- (a) A completed and signed application and appropriate fees for trauma center verification;
- (b) a letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;
- (c) the data specified under R426-9-7 are current;
- (d) Level I and Level II Trauma Centers must submit a copy of the Pre-review Questionnaire (PRO) from the American College of Surgeons in lieu of the application in 1a above.
- (e) Level III Level IV and Level V trauma centers must submit a complete Department approved application.

(2) Hospitals desiring to be designated as Level I and Level II Trauma Centers must be verified by the American College of Surgeons (ACS) within three (3) months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A Department representative must be present during the entire ACS verification visit. Hospitals desiring to be Level III, Level IV or Level V Trauma Centers must be designated by hosting a formal site visit by the Department.

(3) The Department and its consultants may conduct observation, review and monitoring activities with any designated trauma center to verify compliance with designation requirements.

(4) Trauma centers shall be designated for a period of three years unless the designation is rescinded by the Department for non-compliance to standards set forth in R426-9-6 or adjusted to coincide with the American College of Surgeons verification timetable.

(5) The Department shall disseminate a list of designated trauma centers to all Utah hospitals, and state EMS agencies, and as appropriate, to hospitals in nearby states which refer patients to Utah hospitals.

**R426-9-7. Data Requirements for an Inclusive Trauma System.**

(1) All hospitals shall collect, and monthly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. Designated trauma centers shall provide such data in an electronic format. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. The inclusion criteria for a trauma patient are as follows:

(a) ICD9 Diagnostic Codes between 800 and 959.9 (trauma); and

(b) At least one of the following patient conditions:  
Admitted to the hospital for 24 hours or longer; transferred in or out of your hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission

or hospital transfer status; all air ambulance transports (including death in transport and patients flown in but not admitted to the hospital).

- (c) Exclusion criteria are ICD9 Diagnostic Codes:
- 930-939.9 (foreign bodies)
  - 905-909.9 (late effects of injury)
  - 910-924.9 (superficial injuries, including blisters, contusions, abrasions, and insect bites)

The information shall be in a standardized electronic format specified by the Department which includes:

(i) Demographic Data:

- Tracking Number
- Hospital Number
- Date of Birth
- Age
- Age Unit
- Sex
- Race
- Other Race
- Ethnicity
- Medical Record Number
- Social Security Number
- Patient Home Zip Code
- Patient's Home Country
- Patient's Home State
- Patient's Home County
- Patient's Home City
- Patient's Home Zip Code
- Alternate Home Residence

(ii) Event Data:

- Injury Time
- Injury Date
- Cause Code
- Trauma Type
- Work Related
- Patient's Occupational Industry
- Patient's Occupation
- ICD-9/10 Primary E-Code
- ICD-9/10 Location E-Code
- Protective Devices
- Child Specific Restraint
- Airbag Deployment
- Incident Country
- Incident Location Zip Code
- Incident State
- Incident County
- Incident City
- Location Code
- Injury Details

(iii) Referring Hospital:

- Hospital Transfer
- Transport Mode into Referring Hospital
- Referring Hospital
- Referring Hospital Arrival Time
- Referring Hospital Arrival Date
- Referring Hospital Discharge Time
- Referring Hospital Discharge Date
- Referring Hospital Admission Type
- Referring Hospital Pulse
- Referring Hospital Respiratory Rate

Referring Hospital Systolic Blood Pressure  
Referring Hospital GCS -Eye  
Referring Hospital GCS -Verbal  
Referring Hospital GCS -Motor  
Referring Hospital GCS Assessment Qualifiers  
Referring Hospital GCS Total  
Referring Hospital Procedures  
(iv) Prehospital:  
Transport Mode Into Hospital  
Other Transport Mode  
EMS Agency  
EMS Origin  
EMS Notify Time  
EMS Notify Date  
EMS Respond Time  
EMS Respond Date  
EMS Unit Arrival on Scene Time  
EMS Unit Arrival on Scene Date  
EMS Unit Scene Departure Time  
EMS Unit Scene Departure Date  
EMS Destination Arrival Time  
EMS Destination Arrival Date  
EMS Destination  
EMS Trip Form Received  
Initial Field Pulse Rate  
Initial Field Respiratory Rate  
Initial Field Systolic Blood Pressure  
Initial Field Oxygen Saturation  
Initial Field GCS-Eye  
Initial Field GCS-Verbal  
Initial Field GCS-Motor  
Initial Field GCS Assessment Qualifiers  
Initial Field GCS-Total  
(v) Emergency Department/Hospital Information:  
Admit Type  
Admit Service  
ED/Hospital Arrival Time  
ED/Hospital Arrival Date  
ED Admission Time  
ED Admission Date  
ED Discharge Time  
ED Discharge Date  
Inpatient Admission Time  
Inpatient Admission Date  
Hospital Discharge Time  
Hospital Discharge Date  
ED Discharge Disposition  
ED Transferring EMS Agency  
ED Discharge Destination Hospital  
Transfer Reason  
Hospital Discharge Disposition  
Hospital Discharge Destination Hospital  
DC Transferring EMS Agency  
Outcome  
Initial ED/Hospital Pulse Rate  
Initial ED/Hospital Respiratory Rate  
Initial ED/Hospital Respiratory Assistance  
Initial ED/Hospital Systolic Blood Pressure

Initial ED/Hospital Temperature  
Initial ED/Hospital Oxygen Saturation  
Initial ED/Hospital Supplemental Oxygen  
Initial ED/Hospital GCS-Eye  
Initial ED/Hospital GCS-Verbal  
Initial ED/Hospital GCS-Motor  
Initial ED/Hospital GCS Assessment Qualifiers  
Initial ED/Hospital GCS-Total  
Alcohol Use Indicator  
Drug Use Indicator  
Inpatient Length of Stay  
Total ICU Length of Stay  
Total Ventilator Days  
Primary Method of Payment  
Hospital Complications  
Initial ED/Hospital Height  
Initial ED/Hospital Weight  
Signs of Life  
(vi) Hospital Procedures  
ICD-9/10 Hospital Procedures  
Hospital Procedure Start Time  
Hospital Procedure Start Date  
(vii) Diagnosis:  
Co-Morbid Conditions  
Injury Diagnosis Codes  
(viii) Injury Severity Information  
Abbreviated Injury Scale (AIS) Score  
AIS Predot Code  
ISS Body Region  
AIS Version  
Locally Calculated Injury Severity Score

**R426-9-8. Trauma Triage and Transfer Guidelines.**

The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health as model guidelines for triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute care hospitals which are appropriate to adequately receive trauma patients.

**R426-9-9. Noncompliance to Standards.**

(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-9-3.

(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.

**R426-9-10. Statutory Penalties.**

As required by Section 63G-3-201(5): Any person or agency who violates any provision of this rule, per incident, may be assessed a penalty as provided in Section 26-23-6.

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

**Date of Enactment or Last Substantive Amendment: 2013**

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

## Health, Family Health and Preparedness, Emergency Medical Services

### R426-11

#### General Provisions

#### NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 37690

FILED: 06/04/2013

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This repeal is in response to the Governor's mandate for rule review and simplification. This rule is repealed as part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

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

#### ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this repeal.

◆ LOCAL GOVERNMENTS: No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this repeal.

◆ SMALL BUSINESSES: No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by these amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this repeal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No effect on business.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

#### **R426. Health, Family Health and Preparedness, Emergency Medical Services.**

##### **[R426-11. General Provisions:**

##### **R426-11-1. Authority and Purpose:**

~~————— This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.~~

##### **R426-11-2. General Definitions:**

~~————— The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule, in addition:~~

~~————— (1) "Air Ambulance" means any privately or publicly owned air vehicle specifically designed, constructed, or modified, which is intended to be used for and is maintained or equipped with the intent to be used for, maintained or operated for the transportation of individuals who are sick, injured, or otherwise incapacitated or helpless.~~

~~————— (2) "Air medical personnel" means the pilot and patient care personnel who are involved in an air medical transport.~~

~~————— (3) "Air Medical Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-2.~~

~~————— (4) "Air Medical Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.~~

~~————— (5) "Air Medical Transport Service" means the transportation and care of patients by air ambulance.~~

~~————— (6) "CAMTS" is the acronym for the Commission on Accreditation of Medical Transport Systems, which is a non-profit organization dedicated to improving the quality of air medical services.~~

(7) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-7.

(8) "Certify," "Certification," and "Certified" mean the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which he is certified.

(9) "Committee" or "EMS Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(10) "Competitive grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.

(11) "Continuing Medical Education" means Department-approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

(12) "Course Coordinator" means an individual who has completed a Department course coordinator course and is certified by the Department as capable to conduct Department-authorized EMS courses.

(13) "Department" means the Utah Department of Health.

(14) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed an EMD training program, approved by the Bureau, who is certified by the Department as qualified to render services enumerated in this rule.

(15) "Emergency Medical Dispatch Center" means an agency designated by the Department for the routine acceptance of calls for emergency medical assistance from the public, utilizing a selective medical dispatch system to dispatch licensed ambulance, and paramedic services.

(16) "EMS" means emergency medical services.

(17) "Field EMS Personnel" means a certified individual or individuals who are on-scene providing direct care to a patient.

(18) Grants Review Subcommittee means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

(19) "Inclusive Trauma System" means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and prehospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

(19) "Individual" means a human being.

(20) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is certified by the Department as capable to teach EMS personnel.

(21) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

(22) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(23) "Medical Control" means a person who provides medical supervision to an EMS provider as either:

(a) on-line medical control which refers to physician medical direction of prehospital personnel during a medical emergency; and

(b) off-line medical control which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

(24) "Medical Director" means a physician certified by the Department to provide off-line medical control.

(25) "Net Income" - The sum of net service revenue, plus other operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

(26) "Paramedic Rescue Service" means the provision of rescue, extrication and patient care by paramedic personnel, without actual transporting capabilities.

(27) "Paramedic Rescue Unit" means a vehicle which is properly equipped, maintained and used to transport paramedics to the scene of emergencies to perform paramedic rescue services.

(28) "Paramedic Tactical Rescue Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by paramedics who are trained in combat medical response.

(29) "Paramedic Tactical Rescue Unit" means a vehicle which is properly equipped, maintained and used to transport paramedics to the scene of traumatic confrontations to provide paramedic tactical rescue services.

(30) "Patient" means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

(31) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26-8a-207, as part of the Emergency Medical Services Grants Program.

(32) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.

(33) "Person" means an individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, agency or organization of any kind, public or private.

(34) "Physician" means a medical doctor licensed to practice medicine in Utah.

(35) "Pilot" means any individual licensed under Federal Aviation Regulations, Part 135.

(36) "Primary emergency medical services" means a for-profit organization that is the only licensed or designated service in a geographical area.

(37) "Quick Response Unit" means an organization that provides emergency medical services to supplement local ambulance services or provide unique services such as search and rescue and ski patrol.

(38) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of prehospital emergency care.

(39) "Selective Medical Dispatch System" means a department-approved reference system used by a local dispatch agency to dispatch aid to medical emergencies which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; and

(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.

~~(40) "Specialized Life Support Air Medical Service" means a level of care which requires equipment or speciality patient care by one or more medical personnel in addition to the regularly scheduled air medical team.~~

~~(41) "Training Officer" means an individual who has completed a department Training Officer Course and is certified by the Department to be responsible for an EMS provider organization's continuing medical education, recertification records, and testing.~~

**~~R426-11-3. Quality Assurance Reviews.~~**

~~(1) The Department may conduct quality assurance reviews of licensed and designated organizations and training programs on an annual basis or more frequently as necessary to enforce this rule;~~

~~(2) The Department shall conduct a quality assurance review prior to issuing a new license or designation.~~

~~(3) The Department may conduct quality assurance reviews on all personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials and all other attributes or characteristics of the organization, which may include audits, surveys, and other activities as necessary for the enforcement of the Emergency Medical Services System Act and the rules promulgated pursuant to it.~~

~~(a) The Department shall record its findings and provide the organization with a copy.~~

~~(b) The organization must correct all deficiencies within 30 days of receipt of the Department's findings.~~

~~(c) The organization shall immediately notify the Department on a Department approved form when the deficiencies have been corrected.~~

**~~R426-11-4. Critical Incident Stress Management.~~**

~~(1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities under Utah Code Section 26-8a-206.~~

~~(2) The CISM team may conduct stress debriefings and defusings upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.~~

~~(3) Individuals who serve on the CISM team must complete initial and ongoing training.~~

~~(4) While serving as a CISM team member, the individual is acting on behalf of the Department. All records collected by the CISM team are Department records. CISM team members shall maintain all information in strict confidence as provided in Utah Code Title 26, Chapter 3.~~

~~(5) The Department may reimburse a CISM team member for mileage expenses incurred in performing his or her duties in accordance with state finance mileage reimbursement policy.~~

**~~KEY: emergency medical services~~**

**~~Date of Enactment or Last Substantive Amendment: August 22, 2003~~**

**~~Notice of Continuation: July 28, 2009~~**

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

**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-12  
Emergency Medical Services Training  
and Certification Standards**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 37691

FILED: 06/04/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This repeal is in response to the Governor's mandate for rule review and simplification. This rule is repealed as part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** This rule is repealed in its entirety.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this repeal.

◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this repeal.

◆ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this repeal.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No effect on business.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 EMERGENCY MEDICAL SERVICES  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

DAR NOTE: The text of this filing is not included in this Bulletin because the Director of the Division of Administrative Rules has determined it is too long to print. The text is published by reference to the text on file and maintained by the Division of Administrative Rules. (Subsection 63G-3-402(1)(d))

**Health, Family Health and Preparedness, Emergency Medical Services**  
**R426-13**

**Emergency Medical Services Provider Designations**

**NOTICE OF PROPOSED RULE**  
 (Repeal)

DAR FILE NO.: 37692  
 FILED: 06/04/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This repeal is in response to the Governor's mandate for rule review and simplification. This rule is repealed as part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No anticipated fiscal impact to the State budget because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ LOCAL GOVERNMENTS: No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ SMALL BUSINESSES: No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this repeal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 EMERGENCY MEDICAL SERVICES  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

~~**R426-13. Emergency Medical Services Provider Designations. R426-13-100. Authority and Purpose.**~~

~~This rule is established under Title 26, Chapter 8a. It establishes standards for the designation of emergency medical service providers.~~

**R426-13-200. Designation Types.**

~~(1)(a) An entity that provides pre-hospital emergency medical care, but that does not provide ambulance transport or paramedic service, may obtain a designation from the Department as a quick response unit.~~

~~(b) An entity that accepts calls for 911 EMS assistance from the public, and dispatches emergency medical vehicles and field EMS personnel must first obtain a designation from the Department as an emergency medical dispatch center.~~

~~(2) A hospital that provides on-line medical control for prehospital emergency care must first obtain a designation from the Department as a resource hospital.~~

**R426-13-300. Service Levels.**

~~A quick response unit may only operate and perform the skills at the service level at which it is designated. The Department may issue designations for the following types of service at the given levels:~~

- ~~(a) quick response unit;~~
- ~~(i) Basic; and~~
- ~~(ii) Intermediate.~~
- ~~(b) emergency medical dispatch center; and~~
- ~~(c) resource hospital.~~

**R426-13-400. Quick Response Unit Minimum Designation Requirements.**

~~A quick response unit must meet the following minimum requirements:~~

- ~~(1) Have sufficient vehicles, equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its designation;~~
- ~~(2) Have locations for stationing its vehicles;~~
- ~~(3) Have a current dispatch agreement with a public safety answering point that answers and responds to 911 or E911 calls, or with a local single access public safety answering point that answers and responds to requests for emergency assistance;~~
- ~~(4) Have a Department certified training officer;~~
- ~~(5) Have a current plan of operations, which shall include:~~
  - ~~(a) the number, training, and certification of personnel;~~
  - ~~(b) operational procedures; and~~
  - ~~(c) a description of how the designee proposes to interface with other EMS agencies;~~
- ~~(6) Have sufficient trained and certified staff that meet the requirements of R426-15 Licensed and Designated provider Operations;~~
- ~~(7) Have a current agreement with a Department-certified off-line medical director;~~
- ~~(8) Have current treatment protocols approved by the agencies off-line medical director for the designated service level;~~
- ~~(9) Provide the Department with a copy of its certificate of insurance; and~~
- ~~(10) Not be disqualified for any of the following reasons:~~
  - ~~(a) violation of Subsection 26-8a-504; or~~
  - ~~(b) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.~~

**R426-13-500. Emergency Medical Dispatch Center Minimum Designation Requirements.**

~~An emergency medical dispatch center must:~~

~~(1) Have in effect a selective medical dispatch system approved by the off-line medical directors and the Department, which includes:~~

- ~~(a) systemized caller interrogation questions;~~
- ~~(b) systemized pre-arrival instructions; and~~
- ~~(c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration;~~

~~(2) Have a current updated plan of operations, which shall include:~~

- ~~(a) the number, training, and certification of Emergency Medical Dispatch personnel;~~
- ~~(b) operational procedures; and~~
- ~~(c) a description of how the designee proposes to communicate with EMS agencies;~~

~~(3) Have a certified off-line medical director;~~

~~(4) have an ongoing medical call review quality assurance program; and~~

~~(5) provide pre-hospital arrival instructions by a certified Emergency Medical Dispatcher at all times.~~

**R426-13-600. Quick Response Unit and Emergency Medical Dispatch Center Application.**

~~An entity desiring a designation or a renewal of its designation as a quick response unit or an emergency medical dispatch center shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the minimum requirements for the designation listed in this rule and the following:~~

- ~~(1) Identifying information about the entity and its principals;~~
- ~~(2) The name of the person or governmental entity financially and otherwise responsible for the service provided by the designee and documentation from that entity accepting the responsibility;~~
- ~~(3) Identifying information about the entity that will provide the service and its principals;~~
- ~~(4) If the applicant is not a governmental entity, a statement of type of entity and certified copies of the documents creating the entity;~~
- ~~(5) A description of the geographical area that it will serve;~~
- ~~(6) Documentation of the on-going medical call review and quality assurance program;~~
- ~~(7) Documentation of any modifications to the medical dispatch protocols; and~~
- ~~(8) Other information that the Department determines necessary for the processing of the application and the oversight of the designated entity.~~

**R426-13-700. Resource Hospital Minimum Requirements.**

~~A resource hospital must meet the following minimum requirements:~~

~~(1) Be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah;~~

~~(2) Have protocols for providing on-line medical direction to pre-hospital emergency medical care providers;~~

~~(3) Have the ability to communicate with other EMS providers operating in the area; and~~



~~(4) Be willing and able to provide on-line medical direction to quick response units, ambulance services and paramedic services operating within the state;~~

**R426-13-800. Resource Hospital Application.**

~~A hospital desiring to be designated as a resource hospital shall submit the applicable fees and an application on Department approved forms to the Department. As part of the application, the applicant shall provide:~~

- ~~(1) The name of the hospital to be designated;~~
- ~~(2) The hospital's address;~~
- ~~(3) The name and phone number of the individual who supervises the hospital's responsibilities as a designated resource hospital; and~~
- ~~(4) Other information that the Department determines necessary for the processing of the application and the oversight of the designated entity.~~

**R426-13-900. Criteria for Denial of Designation.**

~~(1) The Department may deny an application for a designation for any of the following reasons:~~

- ~~(a) failure to meet requirements as specified in the rules governing the service;~~
  - ~~(b) failure to meet vehicle, equipment, or staffing requirements;~~
  - ~~(c) failure to meet requirements for renewal or upgrade;~~
  - ~~(d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-8a-502 and 26-8a-504;~~
  - ~~(e) failure to meet agreements covering training standards or testing standards;~~
  - ~~(f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;~~
  - ~~(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;~~
  - ~~(h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;~~
  - ~~(i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;~~
  - ~~(j) failure to submit records and other data to the Department as required by statute or rule;~~
  - ~~(k) misuse of grant funds received under Section 26-8a-207;~~
- ~~and~~
- ~~(1) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.~~

~~(2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within thirty calendar days of the issuance of the Department's denial.~~

**R426-13-1000. Application Review and Award.**

~~(1) If the Department finds that an application for designation is complete and that the applicant meets all requirements, it may approve the designation.~~

~~(2) Issuance of a designation by the Department is contingent upon the applicant's demonstration of compliance with all applicable rules and a successful Department quality assurance review.~~

~~(3) A designation may be issued for up to a four-year period. The Department may alter the length of the designation to standardize renewal cycles.~~

**R426-13-1100. Change in Service Level.**

~~(1) A quick response unit EMT-Basic may apply to provide a higher level of service at the EMT-Intermediate service level by:~~

- ~~(a) submitting the applicable fees; and~~
  - ~~(b) submitting an application on Department approved forms to the Department.~~
- ~~(2) As part of the application, the applicant shall provide:~~
- ~~(a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;~~
  - ~~(b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service; and~~
  - ~~(c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director.~~
- ~~(3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.~~

**R426-13-1300. Penalties.**

~~As required by Subsection 63G-3-201(5): Any person that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$10,000 for each occurrence as provided in Section 26-23-6.~~

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: December 15, 2009**

**Notice of Continuation: July 28, 2009**

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

Health, Family Health and  
Preparedness, Emergency Medical  
Services  
**R426-14**  
Ambulance Service and Paramedic  
Service Licensure

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 37693

FILED: 06/04/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This repeal is in response to the Governor's mandate for rule review and simplification. This rule is repealed as part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

**SUMMARY OF THE RULE OR CHANGE:** This rule is repealed in its entirety.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ **LOCAL GOVERNMENTS:** No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ **SMALL BUSINESSES:** No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this repeal.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No impact on business.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON:** 08/07/2013

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

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

~~[R426-14. Ambulance Service and Paramedic Service Licensure.~~

~~**R426-14-100. Authority and Purpose.**~~

~~———— This rule is established under Title 26, Chapter 8a. It establishes standards for the licensure of ambulance and paramedic services.~~

~~**R426-14-101. Requirement for Licensure.**~~

~~———— A person or entity that provides or represents that it provides ambulance or paramedic services must first be licensed by the Department.~~

~~**R426-14-200. Licensure Types.**~~

~~———— The Department issues licenses for a type of service at a certain service level.~~

~~———— (1) The Department may issue ambulance licenses for the following types of service at the given levels:~~

- ~~———— (a) Basic;~~
- ~~———— (b) Intermediate;~~
- ~~———— (c) Intermediate Advanced; and~~
- ~~———— (d) Paramedic.~~

~~———— (2) The Department may issue ground ambulance inter-facility transfer licenses for the following types of service at the given levels:~~

- ~~———— (a) Basic;~~
- ~~———— (b) Intermediate;~~
- ~~———— (c) Intermediate Advanced; and~~
- ~~———— (d) Paramedic.~~

~~———— (3) The Department may issue paramedic, non-transport licenses for the following types of service at the given response configurations:~~

- ~~———— (a) Paramedic Rescue; and~~
- ~~———— (b) Paramedic Tactical Rescue.~~

~~**R426-14-201. Scope of Operations.**~~

~~———— (1) A licensee may only provide service to its specific licensed geographic service area and is responsible to provide service to its entire specific geographic service area. It may provide emergency medical services for its category of licensure that corresponds to the certification levels in R426-12 Emergency Medical Services Training and Certification Standards.~~

~~———— (2) A licensee may not subcontract. A subcontract is present if a licensee engages a person that is not licensed to provide emergency medical services to all or part of its specific geographic service area. A subcontract is not present if multiple licensees allocate responsibility to provide ambulance services between them within a specific geographic service area for which they are licensed to provide ambulance service.~~

~~———— (3) A ground ambulance inter-facility transfer licensee may only transport patients from a hospital, nursing facility, emergency-patient receiving facility, mental health facility, or other medical facility when arranged by the transferring physician for the particular patient.~~

~~**R426-14-300. Minimum Licensure Requirements.**~~

~~———— (1) A licensee must meet the following minimum requirements:~~

~~(a) have sufficient ambulances, emergency response vehicles, equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensees;~~

~~(b) have locations or staging areas for stationing its vehicles;~~

~~(c) have a current written dispatch agreement with a public safety answering point that answers and responds to 911 or E911 calls, or with a local single access public safety answering point that answers and responds to requests for emergency assistance;~~

~~(d) have current written aid agreements with other licensees to give assistance in times of unusual demand;~~

~~(e) have a Department certified EMS training officer;~~

~~(f) have a current plan of operations, which shall include:~~

~~(i) a business plan demonstrating its:~~

~~(A) ability to provide the service; and~~

~~(B) financial viability.~~

~~(ii) the number, training, and certification of personnel;~~

~~(iii) operational procedures; and~~

~~(iv) a description of the how the licensee or applicant proposes to interface with other EMS agencies;~~

~~(g) have sufficient trained and certified staff that meet the requirements of R426-15 Licensed and Designated Provider Operations;~~

~~(h) have a current written agreement with a Department-certified off-line medical director;~~

~~(i) have current treatment protocols approved by the agency's off-line medical director for the existing service level or new treatment protocols if seeking approval under 26-8a-405;~~

~~(j) be able to pay its debts as they become due;~~

~~(k) provide the Department with a copy of its certificate of insurance or if seeking application approval under 26-8a-405, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle in the manner and minimum amounts specified in R426-15-204. All licensees shall:~~

~~(i) obtain insurance from an insurance carrier authorized to write liability coverage in Utah or through a self-insurance program;~~

~~(ii) report any coverage change to the Department within 60 days after the change; and~~

~~(iii) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage.~~

~~(l) not be disqualified for any of the following reasons:~~

~~(i) violation of Subsection 26-8a-504; or~~

~~(ii) disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state that adversely affect its service under its license.~~

~~(2) A paramedic tactical rescue must be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical rescue's geographic service area.~~

#### **R426-14-301. Application, Department Review, and Issuance.**

~~(1) An applicant desiring to be licensed or to renew its license shall submit the applicable fees and an application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-14-300 and the following:~~

~~(a) a detailed description and detailed map of the exclusive geographical area that it will serve;~~

~~(i) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;~~

~~(ii) if an applicant is responding to a public bid as described in 26-8a-405.2 the applicant shall include detailed maps and descriptions of all geographical areas served in accordance with 26-8a-405.2 (2).~~

~~(b) for an applicant for a new service, documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;~~

~~(c) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;~~

~~(d) for renewal applications, a written assessment of field performance from the applicant's off-line medical director; and~~

~~(e) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.~~

~~(2) A ground ambulance or paramedic service holding a license under 26-8a-404, including any political subdivision that is part of a special district or unified fire authority holding such a license, may respond to a request for proposal if it complies with 26-8a-405(2).~~

~~(3) If, upon Department review, the application is complete and meets all the requirements, the Department shall:~~

~~(a) for a new license application, issue a notice of approved application as required by 26-8a-405 and 406;~~

~~(b) issue a renewal license to an applicant in accordance with 26-8a-413(1) and (2);~~

~~(c) issue a license to an applicant selected by a political subdivision in accordance with 26-8a-405.1(3);~~

~~(d) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision certifies to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through (3); or~~

~~(e) issue a second four-year renewal license to a licensee selected by a political subdivision if:~~

~~(i) the political subdivision certifies to the Department that the licensee has met all of the specifications of the original bid and requirements of 26-8a-413(1) through (3); and~~

~~(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.~~

~~(4) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statutes and rules and a successful Department quality assurance review.~~

~~(5) A license may be issued for up to a four-year period. The Department may alter the length of the license to standardize renewal cycles.~~

~~(6) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.~~

**R426-14-302. Selection of a Provider by Public Bid.**

~~(1) A political subdivision that desires to select a provider through a public bid process as provided in 26-8a-405.1, shall submit its draft request for proposal to the Department in accordance with 26-8a-405.2(2), together with a cover letter listing all contact information. The proposal shall include all the criteria listed in 26-8a-405.1 and 405.2.~~

~~(2) The Department shall, within 14 business days of receipt of a request for proposal from a political subdivision, review the request according to 26-8a-405.2(2) and:~~

~~(a) approve the proposal by sending a letter of approval to the political subdivision;~~

~~(b) require the political subdivision to alter the request for proposal to meet statutory and rule requirements; or~~

~~(c) deny the proposal by sending a letter detailing the reasons for the denial and process for appeal.~~

**R426-14-303. Application Denial.**

~~(1) The Department may deny an application for a license or a renewal of a license without reviewing whether a license must be granted or renewed to meet public convenience and necessity for any of the following reasons:~~

~~(a) failure to meet substantial requirements as specified in the rules governing the service;~~

~~(b) failure to meet vehicle, equipment, staffing, or insurance requirements;~~

~~(c) failure to meet agreements covering training standards or testing standards;~~

~~(d) substantial violation of Subsection 26-8a-504(1);~~

~~(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;~~

~~(f) a history of serious or substantial public complaints;~~

~~(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;~~

~~(h) falsification or misrepresentation of any information in the application or related documents;~~

~~(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;~~

~~(j) financial insolvency;~~

~~(k) failure to submit records and other data to the Department as required by R426-7;~~

~~(l) a history of inappropriate billing practices, such as:~~

~~(i) charging a rate that exceeds the maximum rate allowed by rule;~~

~~(ii) charging for items or services for which a charge is not allowed by statute or rule; or~~

~~(iii) Medicare or Medicaid fraud.~~

~~(m) misuse of grant funds received under Section 26-8a-207; and~~

~~(n) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.~~

~~(2) An applicant that has been denied a license may appeal by filing a written appeal within thirty calendar days of the issuance of the Department's denial.~~

**R426-14-400. Change in Service Level.**

~~(1) A ground ambulance service licensee may apply to provide a higher level of non-911 ambulance or paramedic service. The applicant shall submit:~~

~~(a) the applicable fees; and~~

~~(b) an application on Department-approved forms to the Department;~~

~~(c) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;~~

~~(d) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service; and~~

~~(e) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director.~~

~~(2) If the Department determines that the applicant has demonstrated the ability to provide the higher level of service, it shall issue a revised license reflecting the higher level of service without making a separate finding of public convenience and necessity.~~

**R426-14-401. Change of Owner.**

~~A license and the vehicle permits terminate if the holder of a licensed service transfers ownership of the service to another party. As outlined in 26-8a-415, the new owner must submit, within ten business days of acquisition, applications and fees for a new license and vehicle permits.~~

**R426-14-500. Aid Agreements.**

~~(1) A ground ambulance service must have in place aid agreements with other ground ambulance services to call upon them for assistance during times of unusual demand.~~

~~(2) Aid agreements shall be in writing, signed by both parties, and detail the:~~

~~(a) purpose of the agreement;~~

~~(b) type of assistance required;~~

~~(c) circumstances under which the assistance would be given; and~~

~~(d) duration of the agreement.~~

~~(3) The parties shall provide a copy of the aid agreement to the emergency medical dispatch centers that dispatch the licensees.~~

~~(4) A ground ambulance licensee must provide all ambulance service, including standby services, for any special event that requires ground ambulance service within its geographic service area. If the ground ambulance licensee is unable or unwilling to provide the special event coverage, the licensee may arrange with a ground ambulance licensee through the use of aid agreements to provide all ground ambulance service for the special event.~~

**R426-14-600. Penalties.**

~~As required by Subsection 63G-3-201(5). Any person that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6.~~

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: March 15, 2010**

**Notice of Continuation: July 28, 2009**

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

**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-15  
Licensed and Designated Provider  
Operations**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 37694

FILED: 06/04/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This repeal is in response to the Governor's mandate for rule review and simplification. This rule is repealed as part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No anticipated fiscal impact to the state budget because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ LOCAL GOVERNMENTS: No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ SMALL BUSINESSES: No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this repeal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
EMERGENCY MEDICAL SERVICES  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at [gdansie@utah.gov](mailto:gdansie@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

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DAR NOTE: The text of this filing is not included in this Bulletin because the Director of the Division of Administrative Rules has determined it is too long to print. The text is published by reference to the text on file and maintained by the Division of Administrative Rules. (Subsection 63G-3-402(1)(d))

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**Health, Family Health and  
Preparedness, Emergency Medical  
Services  
R426-16  
Emergency Medical Services  
Ambulance Rates and Charges**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 37695

FILED: 06/04/2013

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This repeal is in response to the Governor's mandate for rule review and simplification. This rule is repealed as part of a change to the sequence of numbering for Title R426 that allows for a new set of rules that begins with Rules R426-1 through R426-9. This is part of a set of rules to update, and re-number all of the administrative rules in a more concise and logical order for implementation.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No anticipated fiscal impact to the State budget because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ LOCAL GOVERNMENTS: No anticipated fiscal impact to local governments because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ SMALL BUSINESSES: No anticipated fiscal impact to small businesses because there are no changes in the existing rule requirements that are imposed by this repeal.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No anticipated fiscal impact to businesses because there are no changes in the existing rule requirements that are imposed by this repeal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact for affected persons because there are no changes in the existing rule requirements that are imposed by this repeal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact on business.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 EMERGENCY MEDICAL SERVICES  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: David Patton, PhD, Executive Director

**R426. Health, Family Health and Preparedness, Emergency Medical Services.**

~~**[R426-16. Emergency Medical Services Ambulance Rates and Charges.**~~

**R426-16-1. Authority and Purpose.**

- ~~(1) This rule is established under Title 26, Chapter 8a.~~
- ~~(2) The purpose of this rule is to provide for the establishment of maximum ambulance transportation and rates to be charged by licensed ambulance services in the State of Utah.~~

**R426-16-2. Ambulance Transportation Rates and Charges.**

- ~~(1) Licensed services operating under R426-15 shall not charge more than the rates described in this rule. In addition, the net income of licensed services, including subsidies of any type, shall not exceed the net income limit set by this rule.~~
- ~~(a) The net income limit shall be the greater of eight percent of gross revenue or 14 percent return on average assets.~~
- ~~(b) Licensed Services may change rates at their discretion after notifying the Department, provided that the rates do not exceed the maximums specified in this rule.~~
- ~~(c) An agency may not charge a transportation fee for patients who are not transported.~~
- ~~(2) The initial regulated rates established in this rule shall be adjusted annually on July 1, based on financial data as delineated by the department to be submitted as detailed under R426-16-2(9). This data shall then be used as the basis for the annual rate adjustment.~~
- ~~(3) Base Rates for ground transport to care facility-~~
  - ~~(a) Ground Ambulance - \$594.00 per transport.~~
  - ~~(b) Intermediate / Intermediate Advance EMT Ground Ambulance - \$785.00 per transport.~~
  - ~~(c) Paramedic Ground Ambulance - \$1,148.00 per transport.~~
  - ~~(d) Ground Ambulance with Paramedic on-board - \$1,148.00 per transport if:~~
    - ~~(i) a dispatch agency dispatches a paramedic licensee to treat the individual;~~
    - ~~(ii) the paramedic licensee has initiated advanced life support;~~
    - ~~(iii) on-line medical control directs that a paramedic remain with the patient during transport; and~~
    - ~~(iv) an ambulance service that interfaces with a paramedic rescue service and has an interlocal or equivalent agreement in place, dealing with reimbursing the paramedic agency for services provided up to a maximum of \$244.94 per transport.~~
- ~~(4) Mileage Rate-~~
  - ~~(a) \$31.65 per mile or fraction thereof.~~
  - ~~(b) In all cases mileage shall be computed from the point of pickup to the point of delivery.~~
  - ~~(c) A fuel fluctuation surcharge of \$0.25 per mile may be added when diesel fuel prices exceed \$5.10 per gallon or gasoline exceeds \$4.25 as invoiced.~~
- ~~(5) Surcharge-~~
  - ~~(a) If the ambulance is required to travel for ten miles or more on unpaved roads, a surcharge of \$1.50 per mile may be assessed.~~
- ~~(6) Special Provisions-~~
  - ~~(a) If more than one patient is transported from the same point of origin to the same point of delivery in the same ambulance, the charges to be assessed to each individual will be determined as follows:~~
    - ~~(i) Each patient will be assessed the transportation rate.~~
    - ~~(ii) The mileage rate will be computed as specified, the sum to be divided equally between the total number of patients.~~
  - ~~(b) A round trip may be billed as two one-way trips.~~
  - ~~(c) An ambulance shall provide 15 minutes of time at no charge at both point of pickup and point of delivery, and may charge \$22.05 per quarter hour or fraction thereof thereafter. On round trips, 30 minutes at no charge will be allowed from the time the ambulance reaches the point of delivery until starting the return trip. At the~~

~~expiration of the 30 minutes, the ambulance service may charge \$22.05 per quarter hour or fraction thereof thereafter.~~

- ~~(7) Supplies and Medications -~~
  - ~~(a) An ambulance licensee may charge for supplies and providing supplies, medications, and administering medications used on any response if:
 
    - ~~(i) supplies shall be priced fairly and competitively with similar products in the local area;~~
    - ~~(ii) the individual does not refuse services; and~~
    - ~~(iii) the ambulance personnel assess or treats the individual.~~~~
- ~~(8) Uncontrollable Cost Escalation -~~
  - ~~(a) In the event of a temporary escalation of costs, an ambulance service may petition the Department for permission to make a temporary service-specific surcharge. The petition shall specify the amount of the proposed surcharge, the reason for the surcharge, and provide sufficient financial data to clearly demonstrate the need for the proposed surcharge. Since this is intended to only provide temporary relief, the petition shall also include a recommended time limit.~~
  - ~~(b) The Department will make a final decision on the proposed surcharge within 30 days of receipt of the petition.~~
- ~~(9) Operating report -~~
  - ~~(a) The licensed service shall file with the Department within 90 days of the end of each licensed service's fiscal year, an operating report in accordance with the instructions, guidelines and review criteria as specified by the Department. The Department shall provide a summary of operating reports received during the previous state fiscal year to the EMS Committee in the October quarterly meeting.~~
- ~~(10) Fiscal audits -~~
  - ~~(a) Upon receipt of licensed service fiscal reports, the Department shall review them for compliance to standards established.~~
  - ~~(b) Where the Department determines that the audited service is not in compliance with this rule, the Department shall proceed in accordance with Section 26-8a-504.~~

**R426-16-3. Penalty for Violation of Rule.**

~~As required by Subsection 63G-3-201(5). Any person that violates any provisions of this rule may be assessed a civil money penalty as provided in Section 26-23-6.~~

~~**KEY: emergency medical services, ambulance rates**~~

~~**Date of Enactment or Last Substantive Amendment: July 19, 2012**~~

~~**Notice of Continuation: July 28, 2009**~~

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

**Insurance, Administration**  
**R590-160-5**  
**Rules Applicable to All Proceedings**

**NOTICE OF PROPOSED RULE**  
**(Amendment)**

DAR FILE NO.: 37719  
 FILED: 06/12/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Changes are being made to this rule to set standards, procedures and information from out-of-state attorneys to practice before the Department. This will help the department to know if the out-of-state attorney is in good standing with the Bar and states in which he or she practices.

**SUMMARY OF THE RULE OR CHANGE:** The changes set standards, procedures and information from out-of-state attorneys to practice before the Department. This will help the department to know if the out-of-state attorney is in good standing with the Bar and states in which he or she practices.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-201 and Section 63G-4-102 and Section 63G-4-203

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The changes to this rule will have no fiscal impact on the department or the state's budget or their expenses. The changes set a professional standard of conduct to be met by attorneys practicing before the Department.
- ◆ **LOCAL GOVERNMENTS:** This rule does not affect local governments. It deals with a professional standard of conduct and information being required of out-of-state attorneys practicing before the Department.
- ◆ **SMALL BUSINESSES:** The only impact this rule change may have on small businesses would be if a small insurer or agency hires an out-of-state attorney to represent them before the Department and the attorney defers the cost of the Certificate of Good Standing to the client. Cost of the Certificate would be minimal, probably \$25 or less.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The only impact this rule change may have on businesses or individuals would be if a business or individual hires an out-of-state attorney to represent them before the Department and the attorney defers the cost of the Certificate of Good Standing to the client. Cost of the Certification would be minimal, probably \$25 or less.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The only impact this rule change may have on businesses or individuals would be if a business or individual hires an out-of-state attorney to represent them before the Department and the attorney defers the cost of the Certificate of Good Standing to the client. Cost of the Certification would be minimal, probably \$25 or less.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change will have minimal impact on the out-of-state attorney or the party they represent before the Department.

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [jwhitby@utah.gov](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 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Brett Barratt, Deputy Commissioner

**R590. Insurance, Administration.**

**R590-160. Administrative Proceedings.**

**R590-160-5. Rules Applicable to All Proceedings.**

(1) Liberal Construction. These rules shall be liberally construed to secure just, speedy and economical determination of all issues presented to the commissioner.

(2) Deviation from Rules. The commissioner or presiding officer may permit a deviation from these rules insofar as compliance is found to be impracticable or unnecessary or for other good cause.

(3) Computation of Time. The time within which any act shall be done, as herein provided, shall be computed by excluding the first day and including the last unless the last day is a Saturday, Sunday or a legal holiday, and then it is excluded and the period runs until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

(4) Parties.

(a) Parties to a proceeding before the commissioner may be:

(i) Any person, including the Insurance Department, who has a statutory right to be a party or any person who has a legally protected interest or right in the subject matter that may be affected by the proceeding.

(ii) Any person may become an intervening party when it is established to the satisfaction of the commissioner or presiding officer that the person has a substantial interest in the subject matter of the proceeding and that intervention will be relevant and material to the issues before the commissioner;

(iii) The Insurance Department staff;

(iv) Other persons permitted by the commissioner or presiding officer.

(b) Classification. Participants in a proceeding shall be styled "applicants", "petitioners", "complainants", "respondents", or "interveners", according to the nature of the proceeding and the relation of the parties thereto.

(5) Appearances and Representation.

(a) Making an Appearance. A party enters an appearance by filing an initial pleading or an initial response to a notice of agency action at the beginning of the proceeding, giving the party's name, address, telephone number, and stating the party's position or interest in the proceeding.

(b)(i) Representation of Parties. An attorney who is an active member of the Utah State Bar may represent any party. An

individual who is a party to a proceeding may represent himself or herself. An officer duly authorized by corporate resolution may represent a corporation. A general partner may represent a partnership, and a member or manager may represent a limited liability company.

(ii) An attorney licensed to practice in another jurisdiction in the United States may apply to appear pro hac vice to represent any party in a particular matter by filing a Motion to Appear Pro Hac Vice. A Motion to Appear Pro Hac Vice shall be served on all parties and shall contain:

(A) the name, address, telephone number, fax number, email address, bar identification number(s), and state(s) of admission of the applicant;

(B) the name and number of the case in which the applicant is seeking to appear as the attorney of record or, if the case has not yet been filed, a description of the parties;

(C) a statement whether, in any state, the applicant is currently suspended or disbarred from the practice of law, or has been disciplined within the prior five years, or is the subject of any pending disciplinary proceeding;

(D) the name, address, Bar identification number, telephone number, fax number and email address of a member of the Utah State Bar to serve as associate counsel; and

(E) attach a Certificate of Good Standing from the licensing state in which the applicant resides.

(iii) The presiding officer may issue an order allowing the applicant to appear Pro Hac Vice if it appears that the applicant is qualified and allowing the appearance would be in the interest of justice. The order allowing the applicant to appear may be revoked at any time if the attorney fails to comply with any order or direction of the presiding officer or engages in conduct contrary to the Rules of Professional Conduct. The presiding officer may require Utah counsel to appear at all hearings.

(c) An attorney or other authorized representative authorized in Subsection R590-160-5(5)(b) above, if previous appearance has not been entered, shall file a Notice of Appearance with the commissioner or presiding officer no later than five days before any hearing at which the attorney or other authorized representative shall appear.

(d) Insurance Department Staff. Members of the Insurance Department staff may appear either in support of or in opposition to any cause, or solely to discover and present facts pertinent to the issue.

(6) Pleadings.

(a) Pleadings Enumerated. Pleadings before the commissioner shall consist of petitions, complaints, requests for hearing, responsive pleadings, motions, stipulations, affidavits, memoranda, orders, or other notices used by the commissioner in initiating a proceeding.

(b) Docket Number. Upon the commencement of an adjudicative proceeding, the commissioner shall assign a docket number to the proceeding.

(c) Title. Pleadings before the commissioner shall be titled in substantially the following form:

(i) Centered, heading: BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH;

(ii) Left side, identification of parties: (COMPLAINANT:, RESPONDENT:, PETITIONER:, etc.);

(iii) Right side, identification of type of action: (NOTICE OF HEARING, ORDER TO SHOW CAUSE, etc.);

(iv) Right side, docket number.



(d) **Size and Content of Pleadings.** Pleadings shall be typewritten, double-spaced on white 8-1/2 x 11-inch paper. They must identify the proceedings by title and docket number, if known, and shall contain a clear and concise statement of the matter relied upon as a basis for the pleading, together with an appropriate request for relief when relief is sought.

(e) **Amendments to Pleadings.** The presiding officer may allow pleadings to be amended or corrected. Amendments to pleadings shall be allowed in accordance with the Utah Rules of Civil Procedure.

(f) **Signing of Pleadings.** Pleadings shall be signed and dated by the party or by the party's attorney or other authorized representative and shall show the signer's address, telephone number, and email address, if available. The signature shall be deemed to be a certificate by the signer that the signer has read the pleading and that, to the best of the signer's knowledge and belief, there are good grounds in support of it.

(g) **Petitions.** All pleadings praying for affirmative relief (other than applications, complaints, notices of adjudicative proceedings, or responsive pleadings), including requests to intervene shall be styled "petitions."

(h) **Motions.**

(i) No proceeding before the commissioner may be initiated by a motion except in the case of a Motion for an Order to Show Cause.

(ii) **Motions, other than at a hearing,** shall be in writing and submitted for ruling on either written or oral argument. The filing of affidavits in support of the motions or in opposition thereto may be permitted by the presiding officer. Oral motions may be allowed at a hearing at the discretion of the presiding officer.

(iii) Any motion shall be filed at least ten days prior to the date set for the hearing.

(7) **Filing and Service.**

(a) A document shall be deemed filed on the date it is delivered to and stamped received by the department.

(b) An original and one copy of any pleading shall be filed with the department and a copy served upon all other parties to the proceeding. The presiding officer may direct that a copy of all pleadings and other papers be made available by the party filing the same to any person requesting copies thereof who the presiding officer determines may be affected by the proceedings.

(c) Service may be made upon any party or other person by ordinary mail, by certified mail with return receipt requested, in accordance with the Utah Rules of Civil Procedure, or by any person specifically designated by the commissioner. Service upon licensees, if by mail, shall be to the mailing address or other address on file with the department.

(d) There shall appear on all documents required to be served a Certificate of Service or Certificate of Mailing in substantially the following form: I do hereby certify that on (date), I (served or mailed by regular mail or certified mail return receipt requested, postage prepaid) (the original/a true and correct copy) of the foregoing (document title) to (name and address), (signed).

(e) When any party has appeared by attorney or other authorized representative, service upon the attorney or representative constitutes service upon the party.

(8) **Presiding Officers - Disqualification for Bias.**

(a) Any party to a proceeding may move for the disqualification of an assigned presiding officer by filing with the

commissioner an Affidavit of Bias alleging facts sufficient to support disqualification.

(b) The commissioner shall determine the issue of disqualification as a part of the record of the case, and may request and receive any additional evidence or testimony as deemed necessary to make this determination. The hearing will not proceed until the commissioner makes this determination. No appeal shall be taken from the commissioner's Order on the determination of disqualification for bias except as part of an appeal of a final agency action.

(i) If the commissioner finds that a motion for disqualification was filed without a reasonable basis or good faith belief in the facts asserted, the commissioner may order that the offending party be subject to the appropriate sanctions as are authorized to be imposed by statute or this rule.

(ii) When a presiding officer is disqualified or it becomes impractical for the presiding officer to continue, the commissioner shall appoint another presiding officer.

(c) A presiding officer may at any time voluntarily disqualify himself or herself.

(9) **Ex Parte Contacts Prohibited.** Except as to matters that by law are subject to disposition on an ex parte basis, the commissioner and the presiding officer involved in a hearing shall not have ex parte contact with persons and parties, including staff members of the department appearing as parties to a proceeding, directly or indirectly involved in any matter that is the subject of a pending administrative proceeding unless all parties are given notice and an opportunity to participate.

(10) **Standard of Proof.** All issues of fact in administrative proceedings before the commissioner shall be decided upon the basis of a preponderance of the evidence standard.

**KEY: insurance**

**Date of Enactment or Last Substantive Amendment:** [~~December 29, 2011~~]**2013**

**Notice of Continuation:** October 30, 2008

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 63G-4-102; 63G-4-203

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## Natural Resources, Wildlife Resources R657-65 Urban Deer Control

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 37716

FILED: 06/11/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This purpose of this rule is to establish and evaluate a two-year pilot program with Bountiful City, Utah, and Highland City, Utah, that enables each to design and administer a control plan for the lethal and non-lethal removal of resident deer damaging private property or threatening public safety within the municipality.

**SUMMARY OF THE RULE OR CHANGE:** This rule sets the criteria for which the two identified cities can design and administer a control plan for the removal of deer that are damaging private property or threatening public safety within the municipality.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-14-18 and Section 23-14-19 and Section 23-14-3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This new rule outlines the criteria for Bountiful City and Highland City to establish and administer control plans for the removal of deer. The Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** This new rule sets criteria under which Bountiful City and Highland City can create and administer control plans. The rule allows for the cities to collect a fee of \$50 or less from a person or entity it authorizes to remove deer to help off set the costs to administer the program and process the meat, this filing may create a direct cost or savings impact to the Bountiful and Highland city local governments since they are directly affected by the rule. Other local governments are not indirectly impacted because the rule does not create a situation requiring services from local governments outside of Bountiful and Highland City.

◆ **SMALL BUSINESSES:** Since this new rule sets the criteria to be followed when creating and administering control plans in Bountiful and Highland Cities and allows for the collection of \$50 or less for the removal of deer damaging private property or threatening public safety, this filing has the potential to create a direct cost or savings impact to small businesses, specifically those requesting the removal of deer.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since this new rule sets the criteria to be followed when creating and administering control plans in Bountiful and Highland Cities and allows for the collection of \$50 or less for the removal of deer damaging private property or threatening public safety, this filing has the potential to create a direct cost or savings impact to other persons, specifically those requesting the removal of deer.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR determines that this new rule will create a cost or savings impact to individuals in Utah wishing to have deer removed from damaging their public property in either Bountiful or Highland City as the rule allows for collecting \$50 for DWR's removal of the deer.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments to this rule may create an impact on businesses in Bountiful and Highland City that require the removal of deer.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013**

**THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013**

**AUTHORIZED BY:** Gregory Sheehan, Director

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

**R657-65. Urban Deer Control.**

**R657-65-1. Authority and Purpose.**

(1) This rule is promulgated under authority of Sections 23-14-3, 23-14-18, and 23-14-19.

(2) The purpose of this rule is to establish and evaluate a two year pilot program with Bountiful City, Utah and Highland City, Utah that enables each to design and administer a control plan for the lethal and non-lethal removal of resident deer damaging private property or threatening public safety within the municipality.

**R657-65-2. Definitions.**

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

(2) In addition:

(a) "Deer" means wild mule deer (*Odocoileus hemionus*) living in nature and does not include privately owned, captive deer.

(b) "Division" means the Utah Division of Wildlife Resources.

(c) "Municipality" means Bountiful City in Davis County, Utah and Highland City in Utah County, Utah.

(d) "Urban deer control plan" means a document designed, created, and administered by an authorized municipality that establishes the protocols and methodologies it will pursue to control and mitigate private property damage or public safety threats caused by mule deer within its incorporated boundaries.

**R657-65-3. Authorization to Create and Administer an Urban Deer Control Plan.**

(1) A municipality with a resident mule deer population that is significantly damaging private property or threatening public safety within its boundaries may request the Division for a certificate of registration ("COR") to design, create, and administer an urban deer control plan.

(2) The Division may issue an urban deer control plan COR to a municipality, provided:

(a) the application is filed by a municipality;

(b) resident mule deer are collectively causing significant damage to private property or threatening public safety within the municipality's incorporated boundaries;

(c) it has enacted an ordinance prohibiting the feeding of deer, elk, and moose;

(d) it has general liability insurance in the amount of \$1,000,000.00 or more that covers liability claims that may arise from designing, creating, and administering an urban deer control plan; and

(e) it agrees, without waiving immunity or any other limitation or provision in the Utah Governmental Immunity Act, Utah Code Sections 63G-7-101 through 63G-7-904, to hold harmless and indemnify the Division against any claims or damages arising from its deer removal activities undertaken pursuant to the urban deer control plan COR, except for any allocated share of fault and damages attributable to the Division's actual involvement in deer removal activities on the ground.

#### **R657-65-4. COR Authorities and Limitations.**

(1) An urban deer control plan COR issued to a municipality authorizes it to design, create, and administer an urban deer control plan consistent with the following authorities and limitations.

(2) The COR authorizes the municipality to:

(a) prescribe and employ lethal and non-lethal methods of take to control deer, provided the methods are otherwise in compliance with state and federal law;

(b) utilize baiting to facilitate safe and effective deer removal activities;

(c) select and supervise individuals to perform specified deer removal activities, provided the municipality:

(i) issues to each individual authorized to remove deer a written authorization and tag that:

(A) is on a form prescribed by the Division;

(B) is signed by the city manager and recipient;

(C) identifies the recipient's name, address, date of birth, gender, height, weight, and eye color;

(D) describes the locations, time periods, methods of take, and related activities authorized by the municipality; and

(E) includes a detachable tag consistent with the requirements in Section 23-20-30;

(d) allow a single individual to take more than one deer; and

(e) permit spotlighting to facilitate non-lethal deer removal or carcass recovery efforts.

(3) The municipality will:

(a) require individuals authorized to lethally remove deer

to:

(i) tag the carcass consistent with Section 23-20-30; and

(ii) comply with all federal, state, and local laws pertaining to the possession, use, and discharge of a dangerous weapon; and

(b) take measures to ensure that:

(i) deer carcasses are salvaged consistent with Section 23-20-8 and disposed of as provided by law;

(ii) viscera is removed from the kill site and disposed of as provided by law; and

(iii) antlers of lethally removed deer are promptly surrendered to the Division and not retained by the municipality or the person that takes the animal.

(4) The municipality will not:

(a) capture a deer for release outside municipal boundaries without a written capture and relocation plan prepared in coordination with and approved by the Division;

(b) sell or barter a deer carcass or otherwise use it for pecuniary gain without prior written approval from the Division;

(c) collect a fee or compensation from a person or entity it authorizes to remove deer from its incorporated boundaries, unless the fee or compensation is:

(i) \$50 or less;

(ii) used exclusively to recoup the actual costs incurred by the municipality in:

(A) selecting and qualifying the person; or

(B) butchering and processing lethally removed deer for donation; and

(iii) approved by the Division in writing;

(d) undertake or authorize deer removal activities outside:

(i) incorporated municipal boundaries or any unincorporated areas approved by the Division and the county; or

(ii) the general time frame imposed by the Division;

(e) remove more deer, collectively or by gender, than authorized by Division; or

(f) authorize the discharge of firearms or archery equipment for deer removal;

(i) between one half hour after official sunset and one half hour before official sunrise; or

(ii) in violation of federal, state, or local laws.

#### **R657-65-5. Urban Deer Control Plan.**

(1) Upon receipt of an urban deer control plan COR, the municipality must prepare an urban deer control plan consistent with this Subsection prior to undertaking any deer removal activities.

(2) The urban deer control plan will address and prescribe, at a minimum, the:

(a) lethal and non-lethal methods of take that may be used to remove deer and the conditions under which each may be employed;

(b) conditions and restrictions under which baiting and spotlighting may be used to facilitate deer removal;

(c) persons eligible to perform deer removal activities and the requirements imposed on them;

(d) locations and time periods where specified types of deer removal activities may be employed or authorized;

(e) requirements for tagging deer carcasses;

(f) protocols for carcass removal and disposal;

(g) procedures for promptly returning to the Division all antlers of lethally removed deer; and

(h) procedures for obtaining Division input and approval on live capture and relocation projects.

(3) All aspects of the plan must be consistent with the authorizations and limitations imposed in this rule and the COR.

(4)(a) The municipality will solicit and consider input in the formulation and development of the urban deer control plan from:

(i) the Division;  
(ii) the public;  
(iii) interested businesses and organizations; and  
(iv) local, state, and federal governments.  
(b) The Division may provide technical assistance to the municipality in preparing the urban deer control plan.  
(c) After formulating a draft plan, the municipality will hold a public meeting to take and consider input on the draft before finalizing or implementing it.  
(5) The municipality will assume full responsibility for:  
(a) all costs associated with designing, establishing, implementing, and operating the urban deer control plan and all its associated activities; and  
(b) for the acts and omissions of its officers, employees, agents, contractors, and licensees in designing, preparing, and implementing its urban deer control plan and undertaking the activities authorized thereunder.

**R657-65-6. COR Term and Termination.**

(1) An urban deer control plan COR issued under this rule will remain valid for two years from the date of issuance or until August 31, 2015, whichever is less.  
(2)(a) A municipality may unilaterally withdraw an urban deer control plan and terminate the COR without cause upon 30 days advance written notice to the Division.  
(b) Upon termination of the COR, the municipality and its officers, employees, agents, contractors, and licensees must cease all deer removal activities formally authorized by the COR.

**R657-65-7. Violations.**

Pursuant to Section 23-19-9, the division may suspend, restrict, or deny an urban deer control plan COR for any intentional, knowing, or reckless violation of the Wildlife Code, this rule, or the terms of the COR.

**R657-65-8. Sunset.**

This rule sunsets on August 31, 2015 and all COR's and other authorizations issued hereunder will terminate by operation of law and cease having further legal effect.

**KEY: wildlife, certificate of registration**

**Date of Enactment or Last Substantive Amendment: 2013**  
**Authorizing, and Implemented or Interpreted Law: 23-14-3; 23-14-18; 23-14-19**

Public Safety, Driver License  
**R708-21**  
 Third-Party Testing

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 37717  
 FILED: 06/11/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose for this change is to add language to this rule that is required with the passage of S.B. 19 from the 2013 Legislative Session.

**SUMMARY OF THE RULE OR CHANGE:** This change adds language which requires an applicant for a commercial driver license third party tester or third party examiner license to submit fingerprints and consent to a criminal history background check and FBI check and pay the costs associated with those checks.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53-3-104 and Section 53-3-407.1

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Bureau of Criminal Investigations will receive an applicant's fees to cover the cost associated with a criminal history background check and an FBI check.
- ◆ **LOCAL GOVERNMENTS:** There is no fiscal impact to local government because local government does not regulate third-party testers and examiners for a commercial driver license.
- ◆ **SMALL BUSINESSES:** Costs associated with criminal history background checks and FBI checks for each applicant for a commercial driver license third party tester or third party examiner will be required. It is not known if the business will pay these costs or require their employees to pay these costs. These costs are associated with statute not this rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Costs associated with criminal history background checks and FBI checks for each applicant for a commercial driver license third party tester or third party examiner will be required. It is not known if the business will pay these costs or if the employer will require their employees to pay these costs. These costs are associated with statute not this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Costs associated with criminal history background checks and FBI checks for each applicant for a commercial driver license third party tester or third party examiner will be required. It is not known if the applicant will pay these costs or if their employer will pay these costs. These costs are associated with statute not this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** I have reviewed this rule and determined this rule does not have a fiscal impact on businesses.

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

CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W 3RD FL  
 SALT LAKE CITY, UT 84119-5595  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Jill Laws by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at [jlaws@utah.gov](mailto:jlaws@utah.gov)
- ◆ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at [modalton@utah.gov](mailto:modalton@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Nannette Rolfe, Director

**R708. Public Safety, Driver License.**

**R708-21. Third-Party Testing.**

**R708-21-1. Authority.**

This rule is authorized by ~~Sections~~ Section 53-3-104, ~~and 49 Part 383.75 of the Code of Federal Regulations.~~

**R708-21-2. Purpose.**

The purpose of this rule is to establish standards and procedures for Third-party Testers and Third-party Examiners who enter into an agreement with the State, to administer skills tests to commercial drivers.

**R708-21-3. Definitions.**

- (1) Definitions used in this rule are found in Section 53-3-102.
- (2) In addition:
  - (a) "act involving moral turpitude" means conduct which:
    - (i) is done knowingly contrary to justice, honesty, or good morals;
    - (ii) has an element of falsification or fraud; or
    - (iii) contains an element of harm or injury directed to another person or another property;
  - (b) "designated representative" means a person identified by an organization, who is an officer, owner, partner or employee of the organization and who is authorized by the organization to comply with Third-party Testing Program requirements[-];
  - (c) "established business" means any company that has been issued a license by a state, county or city licensing agency to conduct business[-];
  - (d) "probation" means action taken by the department, which includes a period of close supervision as determined by the division[-];
  - (e) "revocation" means the permanent removal of certification of a Third-party Tester or Third-party Examiner[-];
  - (f) "state" means the State of Utah[-];
  - (g) "third-party examiner" means a person who has completed, passed and maintains the required training to administer the skills tests to commercial drivers[-]; and

(h) "third-party tester" means a person, an agency of this state, an employer, a private driver training facility or other private institution, or a department, agency or entity of local government with whom the state has an agreement to administer skills tests to commercial drivers.

**R708-21-4. Requirements for Application, Certification and Renewal of Certification for a Third-party Tester.**

(1) Application for an original or renewal Third-party Tester certification shall be made on a form furnished by the division, and shall include:

- (a) name of Third-party Tester;
- (b) address of Third-party Tester;
- (c) number of years Third-party Tester has been in business;
- (d) names of all Third-party Examiners;
- (e) addresses of all testing sites;
- (f) name of the designated representative; and
- (g) copy of business license.

(2) Upon receipt of the application, fingerprint card and required fees, the division shall schedule an appointment with the Third-party Tester to determine eligibility, establish test routes, schedule instruction and provide forms.

(3) A written agreement shall be made with the state to conduct skills test as required by Federal regulations established in 49 CFR ~~[Part]~~ 383.75. The agreement shall contain the following provisions:

- (a) allow the Federal Motor Carrier Safety Administration (FMCSA) or its representative, and/or the division to conduct random examinations, inspections and audits without prior notice;
- (b) allow the division to conduct on-site inspections annually or when deemed necessary by the division;
- (c) require all Third-party Examiners receive training approved by the division which requires them to conduct skills tests in compliance with the FMCSA minimum standards; and
- (d) require at least one of the following on an annual basis:
  - (i) a division representative take the tests actually administered by the Third-party Examiner as if the division representative were a test applicant; ~~[-or]~~
  - (ii) the division test a sample of drivers who were examined by the Third-party Examiner to compare pass/fail results; or
  - (iii) the division co-score along with the Third-party Examiner during CDL skills test to compare pass/fail.

(4) The Third-Party tester shall:

- (a) have an established business for a minimum of two years, ~~[-];~~ or employ a Third-party Examiner that has been certified the previous two years under R708-21-5;
- ~~[-] (b) employ a Third-party Examiner that has been certified the previous two years under R708-21-5 of this rule;~~
- ~~]~~ ([e]b) maintain a current business license required by the municipality or county;
- ~~([d]c)~~ ([e]c) have at least one qualified and approved Third-party Examiner;
- ~~([e]d)~~ ([e]d) require that Third-party Examiners:
  - (i) administer at least ten CDL skills tests in the year preceding the renewal of the Third-party Tester application; or
  - (ii) be observed by the division representative administering at least one CDL skills test in the proper manner;

(f) name a designated representative(s) that will sign signature cards for new employees and withdraw the authority of employees that are no longer certified to test for the company;

(g) not be permitted to engage the service of an employee of the division as an examiner, agent, or employee; and

(g) submit a fingerprint card and a check or money order to the division, made payable to the Utah Bureau of Criminal Identification, to cover the cost associated with a criminal history background check and FBI check.

(5) Certification shall be valid for a period of ~~twelve~~ 12 months. No later than one month prior to expiration of certification, the Third-party Tester shall submit a renewal application to the division.

**R708-21-5. Requirements for Application, Certification and Renewal of Certification for a Third-party Examiner.**

(1) An application for an original or renewal Third-party Examiner certification shall be made on a form furnished by the division, and shall include the following:

- (a) name of Third-party Tester;
- (b) address of Third-party Tester;
- (c) name of Third-party Examiner;
- (d) residential address of Third-party Examiner;
- (e) telephone number and email address of Third-party Examiner; and
- (f) signature and date of Third-party Examiner.

(2) All Third-party Examiners shall be sponsored by a Third-party Tester, who shall be responsible for all tests administered by the Third-party Examiner.

(3) An applicant for Third-party Examiner shall comply with the following requirements:

- (a) have and maintain a valid driver's license with no suspensions, revocations, cancellations or disqualifications within one year prior to application;
- (b) have at least three years driving experience;
- (c) submit ~~to the division~~ a fingerprint card and a check or money order to the division, made payable to the Utah Bureau of Criminal Identification, to cover the cost associated with a criminal history background check and FBI check;

(d) have the physical strength and agility to physically enter and exit commercial vehicles unassisted;

(e) complete the approved training by the division and pass the final examination with a minimum score of 80%. Third-party Examiners need to be aware that any training they receive from private or other organizations may require a training fee;

(f) schedule a time, within one year of training with the division representative, to demonstrate his/her ability to perform the skills tests according to ~~[49 C.F.R. 383 subpart (g) and (h)]~~ 49 CFR 383.75 (g) and 49 CFR 383.75 (h), in an actual test setting. Upon approval from the division representative, the examiner may begin testing. Failure to comply with this portion of this certification process will result in the examiner having to complete the approved training as described in R708-21-5 (3)(e); and

(g) upon completion of training, Third-party Examiners shall be issued a certificate of completion. The division will file and maintain a copy of the certificate of completion in the Third-party Tester file.

(4) All authorized Third-party Examiners shall be required to sign an agreement verifying that they have read and understand the required rules and training materials.

(5) Upon application for recertification a Third-party Examiner shall meet the requirements outlined in ~~subsections 1 through 4~~ Subsections R708-21-5(1) through R708-21-5(4) in addition to the following:

(a) administer at least ten CDL skills tests to different applicants in the year preceding the renewal of the Third-party Tester application; or

(b) be observed by the division representative administering at least one CDL skills tests in accordance with ~~[49 C.F.R. 383 subpart (g) and (h)]~~ 49 CFR 383.75(g) and 49 CFR 383.75(h).

**R708-21-6. Requirements for Designated Representative.**

(1) A designated representative is responsible for overseeing the Third-party Tester and Examiners. The designated representative shall be the liaison between division representatives and Third-party Examiners.

(2) A designated representative shall:

(a) maintain personnel files for all Third-party Examiners assigned to their company;

(b) notify the division in writing within 10 calendar days of any change to a Third-party Examiner driving status;

(c) maintain and update all Third-party Examiners signature cards;

(d) notify the division in writing within 30 calendar days of a change to a Third-party Tester or Examiners address;

(e) make application for renewal of a Third-party Tester certificate at least one month prior to expiration date;

(f) maintain security of all CDL score sheets and personal data noted on the CDL score sheets;

(g) ensure all CDL test score sheets have been destroyed after 3 years.

**R708-21-7. Skills Test Administration.**

(1) Skills tests shall be conducted strictly in accordance with the provisions of these requirements and with current test instructions provided by the division ~~[and part 49 C.F.R. 383]~~ 49 CFR 383.75, and the AAMVA training manual.

(a) Such instructions include information regarding:

(i) skills test content;

(ii) route selection/revision;

(iii) test forms;

(iv) examiner procedures; and

(v) administrative procedures.

(2) Tests shall be conducted:

(a) on test routes approved by the division;

(b) in a vehicle that is representative of the class and type of vehicle for which the CDL applicant seeks to be licensed, and for which the Third-party Examiner is qualified to test; and

(c) by using division approved content, forms and scoring procedures.

(3) Third-party Examiners shall test and certify only those CDL applicants who hold a valid Commercial Driver Instruction Permit and shall ensure adherence to the class, endorsements, restrictions and expiration dates listed on the permit.

(4) All Third-party Testers and Third-party Examiners shall schedule the skills tests on the division's web application at least 48 hours prior to administering the CDL Skills test.

**R708-21-8. Processing CDL Skills Test.**

(1) The division shall provide training and allow access to the divisions web service application used for scheduling skills tests and recording the results of the tests to:

(a) a certified Third-party Examiner; or

(b) a representative of the Third-party Tester that has met the requirements of R708-21-5(3)(c) ~~upon approval by the division~~ and the division has reviewed and approved the results of the fingerprint and FBI background checks.

(2) The division shall supply an approved CDL skills test score sheet to authorized Third-party Testers for use when administering skills tests. The score sheet shall be filled out correctly and signed by both the Third-party Examiner and driver[?].

(a) Third-party Testers shall maintain all skill test score sheets for a period of three years after which they must be immediately destroyed by means of incineration or shred.

(b) Third-party Testers are responsible to ensure the security of all CDL score sheets and personal data collected on the CDL score sheets and the applicant.

(3) The score sheet shall include the following information:

(a) applicant's name and phone number;

(b) applicant's Utah Driver License number;

(c) description of the vehicle in which test was taken, including optional equipment;

(d) Gross Vehicle Weight Rating (GVWR);

(e) vehicle and trailer license plate numbers;

(f) class of license, restriction and/or endorsement tested for;

(g) start time, end time, and date test was administered;

(h) authorized Third-party Examiner name and assigned number;

(i) applicant's signature and date; and

(j) authorized Third-party Examiner's signature and date.

(4) The Third-party Examiner shall document all skills test results on the score sheet.

(5) The Third-party Examiner shall provide the completed skills test score sheet to the driver in a sealed envelope.

(6) The Third-party Examiner or Third-party Tester shall not withhold a passed skills test score sheet ~~to~~ from an applicant that has successfully met the testing requirements.

(7) The Third-party Examiner shall enter the skills test results on the driver's record through the division web application within 48 hours of the test.

(8) Test results are only acceptable if testing was completed within the previous ~~6~~ six months.

(9) The division shall accept the score sheet as proof the driver has completed one or more skills tests.

(10) As a result of the driver not completing or passing the skills test within ~~6~~ six months of the original failed or incomplete test, the Third-party Examiner shall send the score sheet directly to the division representative.

**R708-21-9. Inspection and Audit Process.**

(1) During inspections the representative(s) designated by the Third-party Tester shall cooperate with the ~~the~~ division or ~~the~~ federal representative with respect to on-site inspections.

(2) On-site inspections shall be conducted to verify compliance with FMCSA guidelines and ~~this rule~~ R708-21.

(3) The Third-party Tester shall maintain accurate driver testing records and must be able to furnish them upon request.

(4) Check rides may be made by any designated division representative to verify compliance with the ~~the~~ state and ~~the~~ federal minimum testing standards and may consist of:

(a) ~~the~~ a division employee taking the skills test as administered by the Third-party Tester as if such employee was a test applicant;

(b) the division administering the skills tests to a sample of drivers who were previously examined by the Third-party Testers to determine if the check ride results are consistent with the Third-party Tester results; and

(c) the division co-score along with the Third-party Examiner during CDL skills test to compare pass/fail.

(5) A division representative shall prepare a written report of all inspections, check rides and audits. A copy of these reports shall be maintained by the division for ten years.

(6) The division shall send a renewal letter to the Third-party Tester indicating any problems, concerns or violations found during the audit with an action plan detailing how to correct the items identified.

**R708-21-10. Notification of Accident.**

If any Third-party Examiner is involved in an accident during the course of administering a skills test, the Examiner shall notify the division in writing within five days of the accident. The Third-party Examiner shall submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

**R708-21-11. Advertising.**

(1) No advertisement shall indicate in any way that a program can issue or guarantee the issuance of a CDL, or imply that the program can in any way influence the division in the issuance of a CDL, or imply that preferential or advantageous treatment from the division can be obtained.

(2) No Third-party Tester or Third-party Examiner shall solicit business directly or indirectly, or display or distribute any advertising material within 1,500 feet of a building in which driver licenses are issued to the public.

(3) No Third-party Tester or Third-party Examiner shall use any ~~the~~ department or ~~the~~ division logos, letterhead, or license recreations as part of their advertising.

**R708-21-12. Grounds for Revocation, Probation or Denial to Issue or Renew Third-party Tester or Third-party Examiner Certification.**

(1) A Third-party Tester or Third-party Examiner may be revoked, denied or placed on probation for any of the following reasons:

(a) ~~the~~ failure to comply with any of the provisions of ~~49 Part 383 of the Code of Federal Regulations~~ 49 CFR 383.75;

(b) ~~the~~ failure to comply with any of the provisions of ~~the~~ Section 53-3-407 ~~of the Utah Code~~;

(c) ~~the~~ failure to comply with any of the provisions of ~~this rule~~ R708-21;

(d) ~~the~~ falsification of any records or other required information relating to the Third-party Tester program;

(e) ~~[C]~~commission of any act that compromises the integrity of the Third-party Tester Program Commercial Motor Vehicle Safety Act, 1986;

(f) failure to permit and cooperate with the ~~[D]~~division or ~~[F]~~federal representative to inspect the testing routes, testing sites or score sheets issued to the Third-party Tester; and

(g) ~~[C]~~conviction of any crime involving dishonesty, deception, ~~[or]~~theft, or an act involving moral turpitude by a Third-party Tester or Third-party Examiner~~[s]~~.

(2) In determining whether revocation, denial or probation of a certification is appropriate, the division shall consider the third-party tester or third-party examiners involvement and severity of the violation(s).

(3) If a Third-party Examiner certificate is revoked under the emergency provisions of ~~[UAPA, s]~~Section 63G-4-502, and the Third-party Tester certificate is valid, the Third-party Tester may continue conducting CDL driving skills tests provided:

(a) ~~[F]~~the Third-party Examiner is no longer employed by the Third-party Tester;

(b) ~~[A]~~a Third-party Examiner with a valid certificate is employed by the Third-party Tester;

(c) ~~[F]~~testing shall not compromise public safety; and

(d) ~~[F]~~the Third-party Tester is found to not knowingly have allowed a Third-party Examiner to conduct tests that violate ~~[Utah and or Federal laws or this rule]~~state or federal laws, or any provision of R708-21.

(4) Following cancellation of the Third-party Tester certification, the Third-party Tester shall promptly return all CDL skills test documents. Documentation includes at a minimum:

(a) CDL Examiner manual;

(b) ~~[score sheets (both used and blank)]~~used and blank score sheets; and

(c) Third-party Examiner certificates.

#### **R708-21-13. Adjudicative Proceedings.**

(1) All adjudicative proceedings ~~[set forth in this section]~~ shall be conducted informally as provided in Section 63G-4-202.

(2) The division shall initiate agency action against a Third-party Tester or Third-party Examiner with a notice of agency action in accordance with Section 63G-4-201.

(3)(a) A Third-party Tester or Third-party Examiner who receives a notice of agency action indicating that the division intends to deny, suspend or revoke a permit or a certificate, may request a hearing by filing a written request for hearing with the division within ~~[40]~~ten calendar days from the date of the notice of agency action.

(b) If a timely request for hearing is filed, the agency action shall be stayed until the division's hearing officer issues a written decision.

(c) A hearing shall be held before the division's hearing officer within 30 calendar days of the day that the division receives the written request for hearing, unless agreed to by the parties.<sup>[2]</sup>

(d) At the hearing, Third-party Tester or Third-party Examiner shall have an opportunity to demonstrate why the division should not take agency action.

(e) The hearing officer shall issue a written decision within ~~[40]~~ten business days of the hearing in accordance with Section 63G-4-203.

(4) The written decision of the hearing officer shall constitute final agency action and is subject to judicial review in accordance with Section 63G-4-402.

**KEY: motor vehicle safety, inspections**

**Date of Enactment or Last Substantive Amendment: ~~[July 23, 2012]~~2013**

**Notice of Continuation: January 20, 2012**

**Authorizing, and Implemented or Interpreted Law: 53-3-104; ~~53-3-407.1~~; 49 CFR 383.75**

## Public Safety, Driver License **R708-45** Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State

### NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 37718

FILED: 06/11/2013

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this repeal and reenactment is to outline provisions to add a motorcycle endorsement to a Utah driver license for military personnel or their dependents residing outside of Utah (H.B. 32, 2013 General Legislative Session); clarify the provisions for the issuance of a Utah license to military personnel and their dependents residing outside of Utah; and to clarify provisions for the issuance of a Utah license to civilian employees of the U. S. State Department or the U.S. Department of Defense and their dependents residing outside of the United States (H.B. 268, 2012 General Legislative Session).

**SUMMARY OF THE RULE OR CHANGE:** The reenacted rule outlines the provisions to add a motorcycle endorsement to a Utah driver license for military personnel or their dependents stationed outside of Utah (H.B. 32, 2013 General Legislative Session). New definitions were added under Section R708-45-3 and definitions already in statute were referenced and removed from the rule. The rule was reformatted based on the recommendations of the Department's Attorney General representative to clarify and streamline existing language in the rule.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53-3-205(21)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There was a one-time cost (\$7,000) for computer programming changes to implement the



provisions of H.B. 32. This amount was appropriated by the Utah Legislature from the Public Safety Transportation Restricted Account. These costs are associated with Subsection 53-3-205(21), not this rule.

◆ LOCAL GOVERNMENTS: There is no fiscal impact to local government because local government does not issue Utah driver licenses.

◆ SMALL BUSINESSES: There is no fiscal impact to small businesses because small businesses do not issue Utah driver licenses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no fiscal impact to persons other than small businesses, businesses, or local government entities because these groups do not issue Utah driver licenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons other than the statutorily required license and endorsement application fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and determined there is no fiscal impact on businesses.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jill Laws by phone at 801-964-4469, by FAX at 801-964-4482, or by Internet E-mail at [jlaws@utah.gov](mailto:jlaws@utah.gov)  
◆ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at [modalton@utah.gov](mailto:modalton@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Nannette Rolfe, Director

**R708. Public Safety, Driver License.**

**[R708-45. ~~Renewal or Duplicate License for a Utah Resident Temporarily Residing Out of State.~~**

**~~R708-45-1. Purpose.~~**

~~Effective January 1, 2010, the Utah Driver License Division will issue a renewal or a duplicate regular license certificate through the mail under the provisions of this rule to an individual who is a Utah resident that is temporarily residing outside of the state.~~

**~~R708-45-2. Authority.~~**

~~This rule is authorized by Section 53-3-104 and 53-3-205.~~

**~~R708-45-3. Definitions.~~**

~~(1) "Driving Privilege Card" means the evidence of the privilege granted and issued under Chapter 53-3 to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.~~

~~(2) "Limited-Term License Certificate" means the evidence of the privilege granted and issued under Chapter 53-3 to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).~~

~~(3) "Regular Driver License Certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).~~

**~~R708-45-4. Provisions.~~**

~~(1) A valid Regular License Certificate holder with a digitized driver license photo on file with the division who is a resident of the state of Utah and is temporarily residing outside the state of Utah may apply for a renewal or a duplicate of their driver license under the provisions of this rule.~~

~~(a) Upon request and verification of eligibility, a driver will be mailed an application form, a Certificate of Visual Examination, a medical questionnaire, and general instructions for completion of the renewal or duplicate license process.~~

~~(b) During the five year period prior to the application request date, the driver's record may not contain evidence which may represent a hazard to public safety.~~

~~(c) Drivers will be required to comply with verification of identity, verification of legal presence, social security number verification, and Utah residency verification requirements pursuant to Section 53-3-205 in order to complete the license application process.~~

~~(d) Drivers who are 64 years and 6 months old or older, or who have answered "yes" to the vision question under category "I" on the medical questionnaire, must furnish a current Certificate of Visual Examination form before renewing under the provisions of this rule.~~

~~(e) Drivers will mail in the completed application; required identity, legal presence, social security number and Utah residence address documents; and appropriate fees to the Driver License Division, after which the division will mail out a renewal or duplicate license certificate.~~

~~(2) Drivers that have changed their name or do not have the appropriate restrictions under Section 53-3-208 on their present driver's license are not eligible to obtain a renewal or a duplicate of their driver license under the provisions of this rule.~~

~~(3) A driver whose current license has been issued under the provisions of this rule may only renew by mail or receive another duplicate through the mail in the following renewal cycle if approved by the division director or designee. Drivers may renew under the provisions of this rule only once in a ten year period unless approved by the division director or designee.~~

~~(4) In the event that the driver license has already expired at the time the driver license application is submitted through the mail, the application for renewal will not be processed unless it is received within six months from the current expiration date.~~

~~(5) If the applicant is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, and the driver license is valid until 90 days after the person has been discharged or has left the service, the division may issue a renewal or duplicate license under the provisions of this rule;~~

~~(a) unless the license has been suspended, disqualified, denied, revoked or cancelled by the division;~~

~~(b) upon receipt of supporting documentation or verification that establishes that the individual is ordered to active duty in addition to the requirements as outlined in subsection (1);~~

~~(c) the renewal license certificate will reflect an updated expiration date, however, the license will remain in effect until 90 days after the person has been discharged or has left the service.~~

~~(7) Commercial drivers under the "Commercial Driver License Act", Limited Term License holders and Driving Privilege Card holders do not qualify to obtain a duplicate or renew under the provisions of this rule.]~~

#### **R708-45. Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State.**

##### **R708-45-1. Purpose.**

The purpose of this rule is to establish procedures whereby the division may renew or issue a duplicate regular license certificate to a Utah resident who is temporarily residing outside of the state.

##### **R708-45-2. Authority.**

This rule is authorized by Sections 53-3-104 and 53-3-205.

##### **R708-45-3. Definitions.**

Definitions in this rule are found in Section 53-3-102.

In addition:

(a) "DOD applicant" means a person who is a civilian employee of the United States Department of Defense that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license;

(b) "DOS applicant" means a person who is a civilian employee of the United States State Department that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license; and

(c) "military applicant" means a person who is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, or an immediate family member or dependent residing outside of Utah with such person who has applied for a renewal or duplicate Utah driver license.

##### **R708-45-4. Requirements to Renew or Obtain a Duplicate License.**

(1) To be eligible to obtain a renewal or duplicate driver license under the provisions of this rule, an applicant shall:

(a) be a resident of the state of Utah;

(b) be temporarily residing outside the state of Utah; and

(c) have a valid regular license certificate with a digitized driver license photo on file with the division.

(2) The driver record of the applicant shall not:

(a) contain evidence that demonstrates the applicant is a hazard to public safety within the five-year period preceding the application; or

~~(b) reflect expiration of more than a six-month period at the time the application is submitted to the division unless:~~

~~(i) the applicant is a DOD applicant, DOS applicant or military applicant; and~~

~~(ii) the license has not been suspended, disqualified, denied, revoked or cancelled by the division.~~

~~(3) An applicant is not eligible to renew or obtain a duplicate license under the provisions of this rule if:~~

~~(a) the applicant holds a:~~

~~(i) commercial driver license;~~

~~(ii) limited term driver license; or~~

~~(iii) driving privilege card;~~

~~(b) the applicant has previously renewed or obtained a duplicate license under the provisions of this rule, unless approved by the division director or designee;~~

~~(c) the applicant has changed their name since the last Utah license was issued; or~~

~~(d) the required license restrictions have changed since the last Utah license was issued.~~

##### **R708-45-5. Renewal or Duplicate License Application.**

(1) To apply for a renewal or duplicate license under the provisions of this rule, an applicant shall submit to the division:

(a) a license application form, which can be obtained from the division either online or through the mail;

(b) verification pursuant to Section 53-3-205 of:

(i) identity;

(ii) legal presence;

(iii) social security number; and

(iv) Utah residency;

(c) a completed certificate of visual examination form which can be obtained from the division either online or through the mail, if the applicant is age 64 years and 6 months or older at the time of application;

(d) supporting documentation that establishes an applicant is a DOD applicant, DOS applicant or military applicant, if applicable;

(e) proof of successful completion of a certified Motorcycle Safety Foundation rider training course, if the applicant is a military applicant and is applying for an original motorcycle endorsement;

(f) written notice of the applicant's intent to apply for a renewal or duplicate license under the provisions of this rule; and

(g) applicable fees.

(2) Upon receipt of a completed application packet, the division:

(a) shall review the materials to determine if the applicant is eligible for a renewal or duplicate license; and

(b) may request additional information to determine if the applicant is eligible for a renewal or duplicate license.

(3)(a) If the division determines that the applicant has met all of the requirements for a renewal or duplicate license, the division shall issue the license certificate to the applicant.

(b) The license certificate shall expire as provided in Section 53-3-205.

(4) If the division determines that the applicant does not meet the requirements for a renewal or duplicate license:

(a) the division shall issue a denial letter to the applicant that states the reasons for the denial; and

(b) the applicant may seek agency review as provided by Section 63G-4-301 by filing a written request for review within 30 calendar days after the issuance of the letter.

**KEY:** ~~[driver license]~~**renewal license, duplicate license, Utah resident temporarily out-of-state**

**Date of Enactment or Last Substantive Amendment:** ~~[December 31, 2009]~~**2013**

**Authorizing, and Implemented or Interpreted Law:** **53-3-104; 53-3-205**

**Tax Commission, Motor Vehicle Enforcement**

**R877-23V-21**

**Automated License Plate Recognition System Pursuant to Utah Code Ann. Section 41-3-105**

**NOTICE OF PROPOSED RULE (Amendment)**

**DAR FILE NO.:** 37699  
**FILED:** 06/05/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This section is being removed since the subject matter is adequately dealt with in statute enacted by S.B. 196 in the 2013 General Legislative Session.

**SUMMARY OF THE RULE OR CHANGE:** The section is being removed since the subject matter is adequately dealt with in statute enacted by S.B. 196 (2013).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-3-105

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** None--Any fiscal impacts were considered in S.B. 196 (2013).
- ◆ **LOCAL GOVERNMENTS:** None--Any fiscal impacts were considered in S.B. 196 (2013).
- ◆ **SMALL BUSINESSES:** None--Any fiscal impacts were considered in S.B. 196 (2013).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Any fiscal impacts were considered in S.B. 196 (2013).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The section is being removed since the subject matter is adequately dealt with in statute enacted by S.B. 196 (2013).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This removal of this section is now covered by statute which creates no fiscal impact.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
TAX COMMISSION  
MOTOR VEHICLE ENFORCEMENT  
210 N 1950 W  
SALT LAKE CITY, UT 84134  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
◆ Christa Johnson by phone at 801-297-3901, by FAX at 801-297-3907, or by Internet E-mail at cj@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2013

AUTHORIZED BY: Michael Cragun, Tax Commissioner

**R877. Tax Commission, Motor Vehicle Enforcement. R877-23V. Motor Vehicle Enforcement. [R877-23V-21. Automated License Plate Recognition System Pursuant to Utah Code Ann. Section 41-3-105.**

- ~~\_\_\_\_\_ (1) "Automated license plate recognition system" (ALPR) means the computer-based system that utilizes special cameras to capture a color image, as well as an infrared image, of the license plate of a passing vehicle.~~
- ~~\_\_\_\_\_ (2) "Criminal justice agency" is as defined in Section 53-10-102.~~
- ~~\_\_\_\_\_ (3) Information in the ALPR system may be retained for a period of one year.~~
- ~~\_\_\_\_\_ (4) Access to the information obtained from the ALPR system is restricted to:~~
  - ~~\_\_\_\_\_ (a) a criminal justice agency;~~
  - ~~\_\_\_\_\_ (b) a noncriminal justice agency or individual authorized by statute, or commission rule;~~
- ~~and~~
- ~~\_\_\_\_\_ (c) an agency or individual that has an agreement with a criminal justice agency, as authorized by the executive director of the commission.~~
- ~~\_\_\_\_\_ (5) Information obtained from the ALPR system may be used only for law enforcement purposes.~~
- ~~\_\_\_\_\_ (6) Information in the ALPR system is a protected record under Section 63G-2-305.~~

**KEY:** taxation, motor vehicles

**Date of Enactment or Last Substantive Amendment:** [~~June 14, 2012~~]**2013**

**Notice of Continuation:** January 3, 2012

**Authorizing, and Implemented or Interpreted Law:** 41-1a-712; 41-3-105; 41-3-201; 41-3-202; 41-3-210; 41-3-301; 41-3-302; 41-3-305; 41-3-503; 41-3-505; 41-3-506; 41-3-507

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**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 July 31, 2013.

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 October 29, 2013, 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, Air Quality**  
**R307-342**  
**Adhesives and Sealants**

**NOTICE OF CHANGE IN PROPOSED RULE**  
 DAR FILE NO.: 37275  
 FILED: 06/06/2013

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** After evaluating comments received during the 30-day public comment period and through continued work with stakeholders, Division of Air Quality staff identified several areas of the rule that needed clarification and improvement. Specifically, staff identified a need to add additional definitions to the rule, to clarify and add further exemptions to the rule, and to add a provision allowing sellers and users to cycle through existing product.

**SUMMARY OF THE RULE OR CHANGE:** Several changes were made to the rule exemption section. An exemption was added for military operations where Department of Defense military technical data is specifically required. An exemption was added for facility-wide users of adhesives and sealants that use less than 55 gallons per rolling 12-month period. Primers that are dispensed from aerosol spray cans are also exempt from this rule. Definitions for "aerospace component" and "Department of Defense military technical data" were also added to the rule. Several technical and clarifying corrections were also made throughout the rule. Language was also added that allows sellers and users to cycle through product that is in their possession prior to the 09/01/2014 manufacture date. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 17. 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 new rule 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:** Subsection 19-2-104(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** As these changes do not create any new requirements for the state, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** As these changes do not create any new requirements for local governments, there are no anticipated costs or savings.
- ◆ **SMALL BUSINESSES:** The changes made to the rule affect primary entities larger than small businesses; therefore, there are no anticipated costs or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** By adding the exemption for operations that are exclusively covered by Department of Defense military technical data, Hill Air Force Base will particularly see savings as they will be able to maintain many of their contracts for aircraft repair and rework operations and for the rebuilding and rework of weapons systems and equipment. Because these contracts vary, it is difficult to estimate exactly what those savings would be.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The changes made in this rulemaking are to add further exemptions to the rule and to simply add language to clarify the intent of the rule. There are no anticipated compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As this change in proposed rule adds exemptions for primers dispensed from aerosol spray cans, operations that are exclusively covered by the Department of defense military technical data, and users of adhesives and primers who use less than 55 gallons per rolling 12-month period, the rule creates a less burdensome fiscal impact on several businesses.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2013

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**

**R307-342. Adhesives and Sealants.**

**R307-342-1. Purpose.**

The purpose of this rule is to limit emissions of volatile organic compounds (VOCs) from adhesives, sealants, primers and cleaning solvents.

**R307-342-2. Applicability.**

Beginning September 1, 2014, R307-342 applies to any person who manufactures any adhesive, sealant, adhesive primer or sealant primer in Box Elder, Cache, Davis, Salt Lake, Utah or Weber counties and to any person who[;] sells, supplies, or applies any adhesive, sealant, adhesive primer or sealant primer in Box Elder,

Cache, Davis, Salt Lake, Tooele, Utah or Weber [~~County~~]counties[~~-beginning~~] manufactured on or after September 1, 2014.

### **R307-342-3. Exemptions.**

(1) The requirements of R307-342 do not apply to the following:

(a) Adhesives, sealants, adhesive primers or sealant primers being tested or evaluated in any research and development, quality assurance or analytical laboratory;

(b) Adhesives and sealants that contain less than 20 grams of VOC per liter of adhesive or sealant, less water and exempt solvents, as applied;

(c) Cyanoacrylate adhesives;

(d) Adhesives, sealants, adhesive primers or sealant primers that are sold or supplied by the manufacturer or supplier in containers with a net volume of 16 fluid ounces or less or that have a net weight of one pound or less, except plastic cement welding adhesives and contact adhesives;

(e) Contact adhesives that are sold or supplied by the manufacturer or supplier in containers with a net volume of one gallon or less;[~~or~~]

(f) Aerosol [~~spray~~]adhesives [~~products~~]and primers dispensed from aerosol spray cans[-]; or

(g) Polyester bonding putties to assemble fiberglass parts at fiberglass boat manufacturing facilities and at other reinforced plastic composite manufacturing facilities.

(2) The requirements of R307-342 do not apply to the use of adhesives, sealants, adhesive primers, sealant primers, surface preparation and cleanup solvents in the following operations:

(a) Tire repair operations, provided the label of the adhesive states "for tire repair only,"

(b) In the [~~assembly, repair and manufacture~~]production, rework, repair, or maintenance of aerospace vehicles and components, and undersea-based weapon systems;

(c) In the manufacture of medical equipment;[~~and~~]

(d) Operations that are exclusively covered by Department of Defense military technical data and performed on site at installations owned and/or operated by the United States Armed Forces.

(~~d~~e) Plaque laminating operations in which adhesives are used to bond clear, polyester acetate laminate to wood with lamination equipment installed prior to July 1, 1992.

(3) The requirements of R307-342 do not apply to commercial and industrial operations if the total VOC emissions from all adhesives, sealants, adhesive primers and sealant primers used at the source are less than 200 pounds per calendar year.

(4) Adhesive products and sealant products shipped, supplied or sold exclusively outside of the areas specified in R307-342-2 are exempt from the requirements of this rule.

(5) [~~Any person claiming exemption pursuant to R307-342-3 shall record and maintain monthly operational records sufficient to demonstrate compliance.~~

(~~6~~) R307-342 shall not apply to any adhesive, sealant, adhesive primer or sealant primer products manufactured for shipment and use outside of the counties specified R307-342-2 as long as the manufacturer or distributor can demonstrate both that the product is intended for shipment and use outside of the applicable counties and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the product is not distributed to the applicable counties.

(6) R307-342 shall not apply to the use of any adhesives, sealants, adhesive primers, sealant primers, cleanup solvents and surface preparation solvents, provided the total volume of noncomplying adhesives, sealants, primers, cleanup and surface preparation solvents applied facility-wide does not exceed 55 gallons per rolling 12-month period.

(7) Commercial and industrial operations claiming exemption pursuant to R307-342-3 shall record and maintain operational records sufficient to demonstrate compliance.

### **R307-342-4. Definitions.**

The following additional definitions apply to R307-342:

"Acrylonitrile-butadiene-styrene (ABS) welding adhesive" means any adhesive intended by the manufacturer to weld acrylonitrile-butadiene-styrene pipe, which is made by reacting monomers of acrylonitrile, butadiene and styrene.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Adhesive primer" means any product intended by the manufacturer for application to a substrate, prior to the application of an adhesive, to provide a bonding surface.

"Aerospace component" means a fabricated part, assembled part, or completed unit, including passenger safety equipment, of any aircraft, helicopter, missile or space vehicle.

"Architectural sealant or primer" means any sealant or sealant primer intended by the manufacturer to be applied to stationary structures, including mobile homes and their appurtenances. Appurtenances to an architectural structure include, but are not limited to: hand railings, cabinets, bathroom and kitchen fixtures, fences, rain gutters and downspouts, and windows.

"Automotive glass adhesive primer" means an adhesive primer labeled by the manufacturer to be applied to automotive glass prior to installation of the glass using an adhesive or sealant.

"Ceramic tile installation adhesive" means any adhesive intended by the manufacturer for use in the installation of ceramic tiles.

"Chlorinated polyvinyl chloride (CPVC) plastic" means a polymer of the vinyl chloride monomer that contains 67% chlorine and is typically identified with a CPVC marking.

"Chlorinated polyvinyl chloride (CPVC) welding adhesive" means an adhesive labeled for welding of chlorinated polyvinyl chloride plastic.

"Cleanup solvent" means a VOC-containing material used either to remove a loosely held uncured (i.e., not dry to the touch) adhesive or sealant from a substrate or to clean equipment used in applying a material.

"Computer diskette jacket manufacturing adhesive" means any adhesive intended by the manufacturer to glue the fold-over flaps to the body of a vinyl computer diskette jacket.

"Contact bond adhesive" means an adhesive that:

(1) is designed for application to both surfaces to be bonded together;

(2) is allowed to dry before the two surfaces are placed in contact with each other;

(3) forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and

(4) does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using

sufficient momentary pressure to establish full contact between both surfaces.

"Contact adhesive" means an adhesive that feels dry to the touch and bonds instantly. Contact adhesives do not include rubber cements that are primarily intended for use on paper substrates and vulcanizing fluids that are designed and labeled for tire repair only.

"Cove base" means a flooring trim unit, generally made of vinyl or rubber, having a concave radius on one edge and a convex radius on the opposite edge that is used in forming a junction between the bottom wall course and the floor or to form an inside corner.

"Cove base installation adhesive" means any adhesive intended by the manufacturer to be used for the installation of cove base or wall base on a wall or vertical surface at floor level.

"Cyanoacrylate adhesive" means any adhesive with a cyanoacrylate content of at least 95% by weight.

"Department of Defense military technical data" means a specification that specifies design requirements, such as materials to be used, how a requirement is to be achieved, or how an item is to be fabricated or constructed.

"Enclosed cleaning system" means a cleaner consisting of a closed container with a door or top that can be opened and closed and fitted with cleaning connections. A spray gun is attached to the enclosed cleaning system by a connection, and solvent is pumped through the gun to clean it. The cleaning solvent falls back into the cleaning system's solvent reservoir for recirculation.

"Flexible vinyl" means non-rigid polyvinyl chloride plastic with at least 5% by weight plasticizer content.

"Fiberglass" means a material consisting of extremely fine glass fibers.

"Indoor floor covering installation adhesive" means any adhesive intended by the manufacturer for use in the installation of wood flooring, carpet, resilient tile, vinyl tile, vinyl backed carpet, resilient sheet and roll or artificial grass. Adhesives used to install ceramic tile and perimeter bonded sheet flooring with vinyl backing onto a non-porous substrate, such as flexible vinyl, are excluded from this category.

"Laminate" means a product made by bonding together two or more layers of material.

"Marine deck sealant" or "marine deck sealant primer" means any sealant or sealant primer labeled for application to wooden marine decks.

"Medical equipment manufacturing" means the manufacture of medical devices, such as, but not limited to, catheters, heart valves, blood cardioplegia machines, tracheostomy tubes, blood oxygenators, and cardiatory reservoirs.

"Metal to urethane/rubber molding or casting adhesive" means any adhesive intended by the manufacturer to bond metal to high density or elastomeric urethane or molded rubber materials, in heater molding or casting processes, to fabricate products such as rollers for computer printers or other paper handling equipment.

"Multipurpose construction adhesive" means any adhesive intended by the manufacturer for use in the installation or repair of various construction materials, including but not limited to drywall, subfloor, panel, fiberglass reinforced plastic (FRP), ceiling tile and acoustical tile.

"Nonmembrane roof installation/repair adhesive" means any adhesive intended by the manufacturer for use in the installation or repair of nonmembrane roofs and that is not intended for the installation of prefabricated single-ply flexible roofing membrane,

including, but not limited to, plastic or asphalt roof cement, asphalt roof coating and cold application cement.

"Outdoor floor covering installation adhesive" means any adhesive intended by the manufacturer for use in the installation of floor covering that is not in an enclosure and that is exposed to ambient weather conditions during normal use.

"Panel installation" means the installation of plywood, pre-decorated hardboard (or tileboard), fiberglass reinforced plastic, and similar pre-decorated or non-decorated panels to studs or solid surfaces using an adhesive formulated for that purpose.

"Perimeter bonded sheet flooring installation" means the installation of sheet flooring with vinyl backing onto a nonporous substrate using an adhesive designed to be applied only to a strip of up to four inches wide around the perimeter of the sheet flooring.

"Plastic cement welding adhesive" means any adhesive intended by the manufacturer for use to dissolve the surface of plastic to form a bond between mating surfaces.

"Plastic cement welding adhesive primer" means any primer intended by the manufacturer for use to prepare plastic substrates prior to bonding or welding.

"Plasticizer" means a material such as a high boiling point organic solvent that is incorporated into a vinyl to increase its flexibility, workability, or distensibility, as determined by ASTM Method E-260-96.

"Polyvinyl chloride (PVC) plastic" means a polymer of the chlorinated vinyl monomer that contains 57% chlorine.

"Polyvinyl chloride welding adhesive" or "PVC welding adhesive" means any adhesive intended by the manufacturer for use in the welding of PVC plastic pipe.

"Porous material" means a substance that has tiny openings, often microscopic, in which fluids may be absorbed or discharged, including, but not limited to, wood, paper and corrugated paperboard.

"Roadway sealant" means any sealant intended by the manufacturer for application to public streets, highways and other surfaces, including but not limited to curbs, berms, driveways and parking lots.

"Rubber" means any natural or manmade rubber substrate, including styrene-butadiene rubber, polychloroprene (neoprene), butyl rubber, nitrile rubber, chlorosulfonated polyethylene and ethylene propylene diene terpolymer.

"Sealant primer" means any product intended by the manufacturer for application to a substrate, prior to the application of a sealant, to enhance the bonding surface.

"Sealant" means any material with adhesive properties, including sealant primers and caulks, that is formulated primarily to fill, seal, waterproof or weatherproof gaps or joints between two surfaces. "Sheet-applied rubber installation" means the process of applying sheet rubber liners by hand to metal or plastic substrates to protect the underlying substrate from corrosion or abrasion. These operations also include laminating sheet rubber to fabric by hand.

"Single-ply roof membrane" means a prefabricated single sheet of rubber, normally ethylene-propylenediene terpolymer, that is field applied to a building roof using one layer of membrane material.

"Single-ply roof membrane installation and repair adhesive" means any adhesive labeled for use in the installation or repair of single-ply roof membrane.

(1) Installation includes, as a minimum, attaching the edge of the membrane to the edge of the roof and applying flashings to vents, pipes and ducts that protrude through the membrane.



(2) Repair includes gluing the edges of torn membrane together, attaching a patch over a hole and reapplying flashings to vents, pipes or ducts installed through the membrane.

"Single-ply roof membrane adhesive primer" means any primer labeled for use to clean and promote adhesion of the single-ply roof membrane seams or splices prior to bonding.

"Single-ply roof membrane sealant" means any sealant labeled for application to single-ply roof membrane.

"Structural glazing adhesive" means any adhesive intended by the manufacturer to apply glass, ceramic, metal, stone or composite panels to exterior building frames.

"Subfloor installation" means the installation of subflooring material over floor joists, including the construction of any load bearing joists. Subflooring is covered by a finish surface material.

"Surface preparation solvent" means a solvent used to remove dirt, oil and other contaminants from a substrate prior to the application of a primer, adhesive or sealant.

"Thin metal laminating adhesive" means any adhesive intended by the manufacturer for use in bonding multiple layers of metal to metal or metal to plastic in the production of electronic or magnetic components in which the thickness of the bond line[(s)] is less than 0.25 mils.

"Tire repair" means a process that includes expanding a hole, tear, fissure or blemish in a tire casing by grinding or gouging, applying adhesive, and filling the hole or crevice with rubber.

"Traffic marking tape" means preformed reflective film intended by the manufacturer for application to public streets, highways and other surfaces, including curbs, berms, driveways and parking lots.

"Traffic marking tape adhesive primer" means any primer intended by the manufacturer for application to surfaces prior to installation of traffic marking tape.

"Undersea-based weapons systems components" means the fabrication of parts, assembly of parts or completed units of any portion of a missile launching system used on undersea ships.

"Waterproof resorcinol glue" means a two-part resorcinol-resin-based adhesive designed for applications where the bond line must be resistant to conditions of continuous immersion in fresh or salt water.

**R307-342-5. Emission Standards.**

(1) ~~Beginning September 1, 2014, [N]no person shall manufacturer[, sell, supply or offer for sale] any adhesive, sealant, adhesive primer or sealant primer with a VOC content in excess of the limits in Table 1.~~

(2) Beginning September 1, 2014, no person shall sell supply or offer for sale any adhesive, sealant, adhesive primer or sealant primer with a VOC content in excess of the limits in Table 1 and that was manufactured on or after September 1, 2014.

([2]3) Beginning September 1, 2014, [N]no person shall apply any adhesive, sealant, adhesive primer or sealant primer with a VOC content in excess of the limits in Table 1 unless that person uses an add-on control device as specified in R307-342-8 or unless the adhesive, sealant, adhesive primer or sealant primer was manufactured before September 1, 2014.

(4) The VOC content limits in Table 1 for adhesives applied to particular substrates shall apply as follows:

(a) If a person uses an adhesive or sealant subject to a specific VOC content limit for such adhesive or sealant in Table 1,

such specific limit is applicable rather than an adhesive-to-substrate limit; and

(b) If an adhesive is used to bond dissimilar substrates together, the applicable substrate category with the highest VOC content shall be the limit for such use.

TABLE 1

VOC Content Limits for Adhesives, Sealants, Adhesive Primers, Sealant Primers and Adhesives Applied to Particular Substrates (minus water and exempt compounds (compounds that are not defined as VOC), as applied

Adhesive, Sealant, Adhesive Primer Category	VOC Content Limit (grams VOC/liter)
<b>Adhesives</b>	
ABS welding	400
Ceramic tile installation	130
Computer diskette jacket manufacturing	850
Contact bond	250
Cove base installation	150
CPVC welding	490
Indoor floor covering installation	150
Metal to urethane/rubber molding or casting	850
Multipurpose construction	200
Nonmembrane roof installation/repair	300
Other plastic cement welding	510
Outdoor floor covering installation	250
PVC welding	510
Single-ply roof membrane installation/repair	250
Structural glazing	100
Thin metal laminating	780
Tire retread	100
Perimeter bonded sheet vinyl flooring installation	660
Waterproof resorcinol glue	170
Sheet-applied rubber installation	850
<b>Sealants</b>	
Architectural	250
Marine deck	760

Nonmembrane roof installation/repair	300
Roadway	250
Single-ply roof membrane	450
Other	420
<b>Adhesive Primers</b>	
Automotive glass	700
Plastic cement welding	650
Single-ply roof membrane	250
Traffic marking tape	150
Other	250
<b>Sealant Primers</b>	
Non-porous architectural	250
Porous architectural	775
Marine deck	760
Other	750
<b>Adhesives Applied to the Listed Substrate</b>	
Flexible vinyl	250
Fiberglass	200
Metal	30
Porous material	120
Rubber	250
Other substrates	250

**R307-342-6. Application Equipment.**

(1) An operator shall only use the following equipment to apply adhesives and sealants:

- (a) Electrostatic application;
- (b) Flow coater;
- (c) Roll coater;
- (d) Dip coater;
- (e) Hand application method;
- (f) Airless spray and air-assisted airless spray;
- (g) High volume, low pressure spray equipment operated in accordance with the manufacturers specifications; or
- (h) Other methods having a minimum 65% transfer efficiency.

(2) Removal of an adhesive, sealant, adhesive primer or sealant primer from the parts of spray application equipment shall be performed as follows:

- (a) In an enclosed cleaning system;
- (b) Using a solvent with a VOC content less than or equal to 70 grams of VOC per liter of material; or

(c) Parts containing dried adhesive may be soaked in a solvent if the composite vapor pressure of the solvent, excluding water and exempt compounds, is less than or equal to 9.5 mm Hg at 20 degrees Celsius and the parts and solvent are in a closed container that

remains closed except when adding parts to or removing parts from the container.

**R307-342-7. Administrative Requirements.**

(1) Each person that manufactures adhesives, sealants, and adhesive primers subject to this rule shall maintain records demonstrating compliance~~[with this rule, including:]~~.

(2) Commercial and industrial operations that are not exempt under R307-342-3 shall maintain records demonstrating compliance with this rule, including:

(a) A list of each adhesive, sealant, adhesive primer, sealant primer cleanup solvent and surface preparation solvent in use and in storage;

(b) A material data sheet for each adhesive, sealant, adhesive primer, sealant primer, cleanup solvent and surface preparation solvent;

(c) A list of catalysts, reducers or other components used and the mix ratio;

(d) The VOC content or vapor pressure, as applied; and

(e) The monthly volume of each adhesive, sealant, adhesive primer, sealant primer cleanup solvent and surface preparation solvent used.

(2) Except as provided in R307-342-6(2), no person shall use materials containing VOCs for the removal of adhesives, sealants, or adhesive or sealant primers from surfaces, other than spray application equipment, unless the composite vapor pressure of the solvent used is less than 45 mm Hg at 20 degrees Celsius.

**R307-342-8. Optional Add-On Controls.**

(1) VOC emissions from the manufacturer or use of all adhesives, sealants, adhesive primers or sealant primers subject to this rule shall be reduced by an overall capture and control efficiency of at least 85% by weight.

(2) The owner or operator of an emission control system shall provide documentation that the emissions control system will attain the requirements of R307-342-8.

(3) The owner or operator of an emission control system shall maintain for a minimum of two years records of operating and maintenance sufficient to demonstrate that the equipment is being operated and maintained in accordance with the manufacturer recommendations.

**R307-342-9. Container Labeling.**

Each manufacturer of an adhesive, sealant, adhesive primer or sealant primer subject to this rule shall display the following information on the product container or label:

(1) A statement of the manufacture's recommendation regarding thinning, reducing, or mixing of the product.

(a) R307-342-9 does not apply to the thinning of a product with water.

(b) If the thinning of the product prior to use is not necessary, the recommendation shall specify that the product is to be applied without thinning.

(2) The maximum or the actual VOC content of the product in accordance with Table 1, as supplied, displayed in grams of VOC per liter of product; and

(3) The maximum or the actual VOC content of the product in accordance with Table 1, which includes the manufacture's

maximum recommendation for thinning, as applied, displayed in grams of VOC per liter of product.

**KEY:** air pollution, adhesives, sealants, primers  
**Date of Enactment or Last Substantive Amendment:** 2013  
**Authorizing, and Implemented or Interpreted Law:** 19-2-104(1)  
 (a)

## Environmental Quality, Air Quality **R307-357** Consumer Products

### NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37276  
 FILED: 06/06/2013

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** After evaluating comments received during the 30-day public comment period and through continued work with stakeholders, Division of Air Quality staff identified several areas of the rule that needed clarification and improvement. Specifically staff identified the need to add and amend several of the definitions in the rule.

**SUMMARY OF THE RULE OR CHANGE:** Definitions for "fabric refresher" and "graffiti remover" were added while the definitions for "general purpose degreaser," "lubricant," "multi-purpose solvent," "paint thinner," and "sanitizer," are amended to add greater clarity as to which consumer products were required to meet the VOC-content limits in Table 1. Additionally, clarifying and technical changes are made throughout the rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the March 1, 2013, issue of the Utah State Bulletin, on page 12. 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 new rule 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 19-2-101

#### ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no new requirements for the state in this rule; therefore, there are no costs or savings.
- ◆ **LOCAL GOVERNMENTS:** There are no new requirements to local government that result in additional costs or savings.
- ◆ **SMALL BUSINESSES:** There are no changes that result in any costs or savings to small businesses as the changes made are to improve and clarify definitions of terms used throughout the rule and to add language to clarify rule requirements.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no changes that result in any costs or savings to persons other than small businesses, businesses, or local government entities as the changes made are to improve and clarify definitions of terms used throughout the rule and to add language to clarify rule requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The changes made to this rule are to clarify intent, add new definitions, and clarify existing definitions of terms used throughout the rule. There are no compliance costs associated with this change in proposed rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes made to this rule are to clarify intent, add new definitions, and clarify existing definitions of terms used throughout the rule. The changes made here should have no fiscal impact on businesses.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 08/01/2013

AUTHORIZED BY: Bryce Bird, Director

#### **R307. Environmental Quality, Air Quality. R307-357. Consumer Products. R307-357-1. Purpose.**

The purpose of this rule is to reduce volatile organic compound (VOC) emissions from consumer products.

#### **R307-357-2. Applicability.**

R307-357 applies to any person who sells, supplies, offers for sale, distributes for sale, or manufactures for sale consumer products on or after the effective date in Table 1 [~~and is located~~for use in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber counties.

#### **R307-357-3. Definitions.**

The following additional definitions apply to R307-357:  
 "Adhesive" means any product that is used to bond one surface to another by attachment.

(1) Adhesive does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate.

(2) For contact adhesive, construction, panel, and floor covering adhesive and general purpose adhesive only, adhesive also does not include units of product, less packaging, which consist of more than one gallon. This limitation does not apply to aerosol adhesives.

"Adhesive remover" means a product designed exclusively for the removal of adhesives, caulk and other bonding materials from either a specific substrate or a variety of substrates.

"Aerosol adhesive" means an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

"Aerosol cooking spray" means any aerosol product designed to reduce sticking on cooking and baking surfaces and is applied on cooking surfaces, baking surfaces, or food.

"Aerosol Product" means a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force but does not include pump sprays.

"Agricultural use" means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of any animal or plant crop.

(1) Agricultural use does not include the sale or use of pesticides in properly labeled packages or containers which are intended for:

- (a) Home use;
- (b) Use in structural pest control;
- (c) Industrial; or
- (d) Institutional use.

(2) For the purposes of this definition only:

(a) "Home use" means use in a household or its immediate environment.

(b) "Structural pest control" means a use requiring a license under state or federal pesticide licensing requirements.

(c) "Industrial use" means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.

(d) "Institutional use" means use within the lines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

"Air freshener" means any product, including, but not limited to, sprays, wicks, wipes, diffusers, powders, and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air.

(1) Air freshener does not include products that are used on the human body, products that function primarily as cleaning products as indicated on the product label, or odor remover/eliminator products.

"All other carbon containing compounds" means all other compounds which contain at least one carbon atom and are not a VOC defined compound or a LVP-VOC.

"All other forms" means all consumer product forms for which no form specific VOC standard is specified, and unless specified otherwise by the applicable VOC standard, all other forms include, but are not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

"Antimicrobial hand or body cleaner or soap" means a cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity.

(1) Antimicrobial hand or body cleaner or soap includes, but is not limited to:

- (a) Antimicrobial hand or body washes and cleaners;
- (b) Foodhandler hand washes;
- (c) Healthcare personnel hand washes;
- (d) Pre-operative skin preparations; and
- (e) Surgical scrubs.

(2) Antimicrobial hand or body cleaner or soap does not include prescription drug products, antiperspirants, astringent/toner, deodorant, facial cleaner or soap, general-use hand or body cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Antiperspirant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

"Anti-static product" means a product that is labeled to eliminate, prevent, or inhibit the accumulation of static electricity.

"Architectural coating" means a coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

"ASTM" means the American Society for Testing and Materials.

"Astringent/toner" means any product not regulated as a drug by the United States Food and Drug Administration (FDA) which is applied to the skin for the purpose of cleaning or tightening pores.

(1) This category also includes clarifiers and substrate-impregnated products.

(2) This category does not include any hand, face, or body cleaner or soap product, medicated astringent/medicated toner, cold cream, lotion, or antiperspirant.

"Automotive hard paste wax" means an automotive wax or polish that is:

- (1) Designed to protect and improve the appearance of automotive paint surfaces;
- (2) A solid at room temperature; and
- (3) Contains 0% water by formulation.

"Automotive instant detailer" means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

"Automotive rubbing or polishing compound" means a product designed primarily to remove oxidation, old paint, scratches or "swirl marks," and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

"Automotive wax, polish, sealant or glaze" means a product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces.

(1) Automotive wax, polish, sealant or glaze includes, but is not limited to, products designed for use in autobody repair shops, drive-through car washes and products designed for the general public.

(2) Automotive wax, polish, sealant or glaze does not include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

"Automotive windshield washer fluid" means any liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield but does not include fluids placed by the manufacturer in a new vehicle.

"Bait station insecticide" means containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5% active ingredients.

"Bathroom and tile cleaner" means a product designed to clean tile or surfaces in bathrooms but does not include products specifically designed to clean toilet bowls or toilet tanks.

"Brake cleaner" means a cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.

"Bug and tar remover" means a product designed to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish:

- (1) Biological-type residues such as insect carcasses and tree sap; and
- (2) Road grime, such as road tar, roadway paint markings, and asphalt.

"CARB" means the California Air Resources Board.

"Carburetor or fuel-injection air intake cleaners" means a product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages but does not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

"Carpet and upholstery cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, the interior of motor vehicles, household furniture, or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics.

(1) Carpet and upholstery cleaner includes, but is not limited to, products that make fabric protectant claims.

(2) Carpet and upholstery cleaner does not include general purpose cleaners, spot removers, vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

"Charcoal lighter material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition.

"Colorant" means any pigment or coloring material used in a consumer product for an aesthetic effect, or to dramatize an ingredient.

"Construction, panel, and floor covering adhesive" means any one component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

(1) Structural and building components that include, but are not limited to, beams, trusses, studs, paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard, etc.), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, and flooring or subflooring; or

(2) Floor or wall coverings that include, but are not limited to, wood or simulated wood covering, carpet, carpet pad or cushion, vinyl backed carpet, flexible flooring material, nonresilient flooring material, mirror tiles and other types of tiles, and artificial grass.

(3) Construction, panel, and floor covering adhesive does not include floor seam sealer.

"Consumer" means any person who purchases, or acquires any consumer product for personal, family, household, or institutional use, and persons acquiring a consumer product for resale are not consumers for that product.

"Consumer product" means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products but does not include other paint products, furniture coatings, or architectural coatings.

"Contact adhesive" means a non-aerosol adhesive that:

(1) Is designed for application to both surfaces to be bonded together;

(2) Is allowed to dry before the two surfaces are placed in contact with each other;

(3) Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other; and

(4) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(5) Contact adhesive does not include rubber cements that are primarily intended for use on paper substrates.

(6) Contact adhesive does not include vulcanizing fluids that are designed and labeled for tire repair only.

"Container/packaging" means the part or parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended and includes any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

"Crawling bug insecticide" means any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish or spiders but does not include products designed to be used exclusively on humans or animals, or any house dust mite product.

(1) For the purposes of this definition only:

(a) "House dust mite product" means a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.

(b) "House dust mite" means mites which feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

"Date-Code" means the day, month and year on which the consumer product was manufactured, filled, or packaged, or a code indicating such a date.

"Deodorant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

"Device" means any instrument or contrivance (other than a firearm) which is designed for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals) but does not include equipment used for the application of pesticides when sold separately therefrom.

"Disinfectant" means any product that is labeled as a disinfectant or is labeled as a product that destroys or irreversibly inactivates infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered as a disinfectant under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq.).

(1) Products that are labeled as both a "sanitizer" and a "disinfectant" are considered disinfectants.

(2) Disinfectant does not include any of the following:

(a) Products labeled as solely for use on human or animals;

(b) Products labeled as solely for agricultural use;

(c) Products labeled as solely for use in swimming pools, therapeutic tubs, or hot tubs;

(d) Products that are labeled to be used on heat sensitive critical or semi-critical medical devices or medical equipment surfaces;

(e) Products that are pre-moistened wipes or towelettes sold exclusively to medical, convalescent, or veterinary establishments;

(f) Products that are labeled to be applied to food-contact surfaces and are not required to be rinsed prior to contact with food; or

(g) Products labeled as bathroom and tile cleaners, glass cleaners, general purpose cleaners, metal polishes, carpet cleaners or fabric refreshers that may also make disinfecting or antimicrobial claims on the label.

"Distributor" means any person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

"Double phase aerosol air freshener" means an aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

"Dry cleaning fluid" means any non-aqueous liquid product designed and labeled exclusively for use on fabrics which are labeled for dry clean only, such as clothing or drapery or s-coded fabrics.

(1) Dry cleaning fluid includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place.

(2) Dry cleaning fluid does not include spot remover or carpet and upholstery cleaner.

"Dual purpose air freshener/disinfectant" means an aerosol product that is represented on the product container for use as both a disinfectant and an air freshener or is so represented on any sticker, label, packaging, or literature attached to the product container.

"Dusting aid" means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating but does not include products which consist entirely of compressed gases for use in electronic or other specialty areas.

"Electrical cleaner" means a product labeled as a product that removes heavy soils such as grease, grime, or oil from electrical equipment, including, but not limited to, electric motors, armatures, relays, electric panels, or generators.

(1) Electrical cleaner does not include general purpose cleaner, general purpose degreaser, dusting aid, electronic cleaner, energized electrical cleaner, pressurized gas duster, engine degreaser, anti-static product, or products designed to clean the casings or housings of electrical equipment.

"Electronic cleaner" means a product labeled as a product that removes dirt, moisture, dust, flux or oxide from the internal components of electronic or labeled as precision equipment such as circuit boards and the internal components of electronic devices, including, but not limited to, radios, compact disc players, digital video disc players, and computers.

"Engine degreaser" means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

"Fabric protectant" means a product labeled as a product to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of liquid into the fabric's fibers but does not include waterproofers or products labeled for use solely on leather.

(1) Fabric protectant does not include pigmented products that are designed to be used primarily for coloring, products used for construction, reconstruction, modification, structural maintenance or repair of fabric substrates, or products that renew or restore fabric and qualifying as either clear coating or vinyl, fabric, leather, or polycarbonate coatings.

"Fabric refresher" means a product labeled to neutralize or eliminate odors on non-laundered fabric, including, but not limited to, soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, clothing or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, or nylon. Fabric refresher does not include anti-static products, carpet and upholstery cleaners, footwear or leather care products, spot removers, disinfectants, or products labeled for application to both fabric and human skin.

"Facial cleaner or soap" means a cleaner or soap designed primarily to clean the face.

(1) Facial cleaner or soap includes, but is not limited to, facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms.

(2) Facial cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, general-use hand or body cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Flea and tick insecticide" means any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs but does not include products that are designed to be used exclusively on humans or animals and their bedding.

"Flexible flooring material" means asphalt, cork, linoleum, no wax, rubber, seamless vinyl and vinyl composite flooring.

"Floor polish or wax" means a product designed or labeled as a product to polish, wax, condition, protect, temporarily seal or otherwise enhance floor surfaces by leaving a protective finish that is designed or labeled to be periodically replenished.

(1) Floor polish or wax does not include spray buff products, floor wax strippers, products designed or labeled for unfinished wood floors, or coatings subject to architectural coatings regulations.

(2) Floor polish or wax is divided into three categories: products for resilient flooring materials, products for nonresilient flooring materials, and wood floor wax. For the purposes of this section:

(a) "Resilient flooring material" means flexible flooring material, including but not limited to, asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.

(b) "Nonresilient flooring material" means flooring of a mineral content that is not flexible, including, but not limited to, terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

(c) "Wood floor wax" means wax-based products for use solely on wood floors.

"Floor seam sealer" means any product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

"Floor wax stripper" means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax but does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

"Flying bug insecticide" means any insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats.

(1) Flying bug insecticide does not include wasp and hornet insecticide, products that are designed to be used exclusively on humans or animals, or any moth-proofing product.

(2) For the purposes of this definition only, "moth-proofing product" means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

"Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of two millimeters of mercury (mm Hg) at 20 degrees Celcius, the sole purpose of which is to impart an odor or scent or to counteract a malodor.

"Furniture maintenance product" means a wax, polish, conditioner, or any other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors but does not include dusting aids, products designed

solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

"Furniture coating" means any paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.

"Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

"General purpose adhesive" means any non-aerosol adhesive designed for use on a variety of substrates.

(1) General purpose adhesive does not include;

(a) Contact adhesives;

(b) Construction, panel, and floor covering adhesives;

(c) Adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls); or

(d) Adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

"General Purpose Cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations and includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

"General purpose degreaser" means any product labeled as a product that removes or dissolves grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts.

(1) General purpose degreaser does not include engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, electrical cleaner, metal polish/cleanser, oven or grill cleaner, products used exclusively in solvent cleaning tanks or related equipment, or products that are:

(a) ~~[Sold-e]~~ Exclusively sold directly or through distributors to establishments that manufacture or construct goods or commodities; and

(b) Labeled ~~[not]~~for retail sale use in the manufacturing process only.

(2) Solvent cleaning tanks or related equipment includes, but is not limited to, cold cleaners, vapor degreasers, conveyorized degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

"General-use hand or body cleaner or soap" means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils.

(1) General-use hand or body cleaner or soap includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps.

(2) General-use hand or body cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Glass cleaner" means a cleaning product designed primarily for cleaning surfaces made of glass but does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

"Graffiti remover" means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish from a variety of non-cloth or non-fabric substrates.

(1) Graffiti remover does not include paint remover or stripper, nail polish remover, or spot remover.

(2) Products labeled for dual use as both a paint stripper and graffiti remover are considered graffiti removers.

"Hair mousse" means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

"Hair shine" means any product designed for the primary purpose of creating a shine when applied to the hair.

(1) Hair shine includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair.

(2) Hair shine does not include hair spray, hair mousse, hair styling gel or spray gel, or products whose primary purpose is to condition or hold the hair.

"Hair styling gel" means a high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

"Hair spray" means a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

"Hair Styling Product" means a consumer product manufactured on or after January 1, 2009, that is designed or labeled as a product for the application to wet, damp or dry hair to aid in defining, shaping, lifting, styling or sculpting of the hair.

(1) Hair styling product includes, but is not limited to, hair balm, clay, cream, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers or conditioners that make styling claims.

(2) Hair styling product does not include hair mousse, hair shine, hair spray, or shampoos or conditioners that are rinsed from the hair prior to styling.

"Heavy-duty hand cleaner or soap" means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water but does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent/toner, facial cleaner or soap, general-use hand or body cleaner or soap, medicated astringent/medicated toner, or rubbing alcohol.

"Herbicide" means a pesticide product designed to kill or retard a plant's growth, but excludes products that are:

(1) For agricultural use; or

(2) Restricted materials that require a permit for use and possession.

"High volatility organic compound (HVOC)" means any volatile organic compound that exerts a vapor pressure greater than 80 millimeters of Mercury (mm Hg) when measured at 20 degrees Celsius.

"Household product" means any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

"Insecticide" means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

(1) For agricultural use;

(2) For a use which requires a structural pest control license under applicable state or federal laws or regulations; or

(3) Restricted materials that require a permit for use and possession.

"Insecticide fogger" means any insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

"Institutional product" or "Industrial and institutional (I&I) product" means a consumer product that is designed for use in the maintenance or operation of an establishment that manufactures, transports, or sells goods or commodities, or provides services for profit or is engaged in the nonprofit promotion of a particular public, educational, or charitable cause.

(1) Establishments include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies.

(2) Institutional product does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

"Label" means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

"Laundry prewash" means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance.

"Laundry starch product" means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric and includes, but is not limited to, fabric finish, sizing, and starch.

"Lawn and garden insecticide" means an insecticide product designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

"Liquid" means a substance or mixture of substances which is capable of a visually detectable flow as determined under ASTM D 4359- 90 but does not include powders or other materials that are composed entirely of solid particles.

"Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts or to loosen rusted or immovable parts or mechanisms.

(1) Lubricant does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are:



(a) ~~[Sold e]~~ Exclusively sold directly or through distributors to establishments that manufacture or construct goods or commodities; and

(b) Labeled ~~[not]~~ for ~~[retail sale]~~ use in the manufacturing process only.

"LVP content" means the total weight, in pounds, of LVP compounds in a product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.

"LVP-VOC" means a chemical compound or mixture that contains at least one carbon atom and meets one of the following:

(1) Has a vapor pressure less than 0.1 mm Hg at 20 degrees Celsius, as determined by CARB Method 310;

(2) Is a chemical compound with more than 12 carbon atoms, or a chemical mixture comprised solely of compounds with more than 12 carbon atoms, and the vapor pressure is unknown;

(3) Is a chemical compound with a boiling point greater than 216 degrees Celsius, as determined by CARB Method 310; or

(4) Is the weight percent of a chemical mixture that boils above 216 degrees Celsius, as determined by CARB Method 310.

(5) For the purposes of the definition of LVP-VOC:

(a) "Chemical compound" means a molecule of definite chemical formula and isomeric structure; and

(b) "Chemical mixture" means a substrate comprised of two or more chemical compounds.

"Manufacturer" means any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a consumer product.

"Medicated astringent/medicated toner" means any product regulated as a drug by the FDA which is applied to the skin for the purpose of cleaning or tightening pores.

(1) Medicated astringent/medicated toner includes, but is not limited to, clarifiers and substrate-impregnated products.

(2) Medicated astringent/medicated toner does not include hand, face, or body cleaner or soap products, astringent/toner, cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

"Medium volatility organic compound (MVOC)" means any volatile organic compound that exerts a vapor pressure greater than two mm Hg and less than or equal to 80 mm Hg when measured at 20 degrees Celsius.

"Metal polish/cleanser" means any product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces by physical or chemical action.

(1) To improve the appearance means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny.

(2) Metal polish/cleanser includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals.

(3) Metal polish/cleanser does not include automotive wax, polish, sealant or glaze, wheel cleaner, paint remover or stripper, products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

"Mist spray adhesive" means any aerosol which is not a special purpose spray adhesive and which delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield

a generally uniform and smooth application of adhesive to the substrate.

"Multi-purpose dry lubricant" means any lubricant that is:

(1) Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide ("moly"), or polytetrafluoroethylene or closely related fluoropolymer ("teflon") on surfaces; and

(2) Designed for general purpose lubrication, or for use in a wide variety of applications.

"Multi-purpose lubricant" means any lubricant designed for general purpose lubrication or for use in a wide variety of applications but does not include multi-purpose dry lubricants, penetrants, or silicone-based multi-purpose lubricants.

~~"Multi-purpose solvent" means [any organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials.~~

~~(1) Multi-purpose solvent includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories.~~

~~(2) Multi-purpose solvent does not include solvents used in cold cleaners, vapor degreasers, conveyorized degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment. any liquid product designed or labeled to be used for dispersing, dissolving, or removing contaminants or other organic materials.~~

~~(1) Multi-purpose solvent includes:~~

~~(a) Products that do not display specific use instructions on the product container or packaging;~~

~~(b) Products that do not specify an end-use function or application on the product container or packaging;~~

~~(c) Solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories;~~

~~(d) Paint clean-up products; and~~

~~(e) Products labeled to prepare surfaces for painting.~~

~~(2) Multi-purpose solvent does not include any product making any representation that the product may be used as, or is suitable for use as, a consumer product that meets another definition in R307-357-3; such products are subject to the most restrictive limit provisions in R307-357-10(4) and R307-357-10(5).~~

"Nail polish" means any clear or colored coating designed for application to the fingernails or toenails and including but not limited to, lacquers, enamels, acrylics, base coats and top coats.

"Nail polish remover" means a product designed to remove nail polish and coatings from fingernails or toenails.

"Non aerosol product" means any consumer product that is not dispensed by a pressurized spray system.

"Non carbon containing compound" means any compound which does not contain any carbon atoms.

"Non-selective terrestrial herbicide" means a terrestrial herbicide product that is toxic to plants without regard to species.

"Oven or grill cleaner" means a product labeled exclusively as a product to remove baked on grease or deposits from food preparation or cooking surfaces.

"Paint" means any pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is

used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

"Paint remover or stripper" means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate but does not include "Multi-purpose Solvents", paint brush cleaners, products designed and labeled exclusively to remove graffiti, and hand cleaner products that claim to remove paints and other related coatings from skin.

"Paint thinner" means ~~[a liquid that is added to paint to make it less thick or to remove paint from an applicator.]~~ any liquid product used for reducing the viscosity of coating compositions or components or that prominently displays the term paint thinner, lacquer thinner, thinner, or reducer on the front panel of its packaging.

(1) Paint thinner does not include any of the following products:

(a) Artist's solvent/thinner;

(b) Products that are sold in containers with a capacity of five gallons or more and labeled exclusively for the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings;

(c) Products labeled and used exclusively as an ingredient in a specific coating or coating brand line whereby the coating would not be complete or useable without the specific ingredient;

(d) Products that meet both of the following criteria:

(i) The principle display panel of the product displays, states that the product is used exclusively for the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings; and

(ii) No representation is made anywhere on the product container or packaging or any label or sticker attached thereto that the product is suitable for use or may be used for any other purpose except the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings.

"Penetrant" means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes but does not include "Multi-purpose Lubricants" that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

"Pesticide" means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "pesticide" will not include any substance, mixture of substances, or device which the United States Environmental Protection Agency does not consider to be a pesticide.

"Principal display panel or panels" means that part, or those parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the "principal display panel" shall pertain to all such "principal display panels."

"Product category" means the applicable category which best describes the product as listed in Table 1. "Propellant"

means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

"Pump spray" means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger or other actuator.

"Restricted materials" means pesticides established as restricted materials under applicable state or federal laws or regulations.

"Roll on product" means any antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

"Rubber/vinyl protectant" means any product labeled as a product that protects, preserves or renews vinyl or rubber on vehicles, tires, luggage, furniture, or household products such as vinyl covers, clothing, or accessories. Rubber/vinyl protectant does not include products labeled to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

"Sanitizer" means a product that is labeled as a sanitizer or labeled as a product to reduce, but not necessary eliminate, microorganisms in the air, on surfaces, or on inanimate objects and whose label is registered as a sanitizer under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. section 136 et seq.)

(1) Products that are labeled as both a sanitizer and a disinfectant are considered disinfectants.

(2) Sanitizers do not include:

(a) Disinfectants;

(b) Products labeled solely for use on humans or animals;

(c) Products labeled solely for agricultural use;

(d) Products labeled solely for use in swimming pools, therapeutic tubs, or hot tubs;

(e) products that are labeled to be used on heat sensitive critical or semi-critical medical devices or medical equipment surfaces;

(f) Pre-moistened wipes or towelettes sold exclusively to medical, convalescent or veterinary establishments;

(g) Products that are labeled to be applied to food-contact surfaces and are not required to be rinsed prior to contact with food; or

(h) Bathroom and tile cleaners, glass cleaners, general purpose cleaners, metal polishers or fabric refreshers that may also make sanitizing or anti-microbial claims on the label.

"Rubbing alcohol" means any product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

"Sealant and caulking compound" means any product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces.

(1) Sealant and caulking compound does not include roof cements and roof sealants; insulating foams; removable caulking compounds; clear/paintable/water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; or sealers that are applied as continuous coatings.

(2) Sealant and caulking compound also does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces.

(3) For the purposes of this definition only:

(a) "Removable caulking compounds" means a compound which temporarily seals windows or doors for three to six month time intervals; and

(b) "Clear/paintable/water resistant caulking compounds" means a compound which contains no appreciable level of opaque fillers or pigments; transmits most or all visible light through the caulk when cured; is paintable; and is immediately resistant to precipitation upon application.

"Semisolid" means a product that, at room temperature, will not pour, but will spread or deform easily, including gels, pastes, and greases.

"Shaving cream" means an aerosol product which dispenses a foam lather intended to be used with a blade, cartridge razor, or other wet shaving system in the removal of facial or other bodily hair.

"Shaving Gel" means an aerosol product that dispenses a post-foaming semisolid designed to be used with a blade, cartridge razor, or other shaving system in the removal of facial or other bodily hair.

"Silicone-based multi-purpose lubricant" means any lubricant which is:

(1) Designed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane; and

(2) Designed and labeled for general purpose lubrication, or for use in a wide variety of applications.

(3) Silicone-based multi-purpose lubricant does not include products designed and labeled exclusively to release manufactured products from molds.

"Single phase aerosol air freshener" means an aerosol air freshener with the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

"Solid" means a substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D-4359-90.

"Special purpose spray adhesive" means an aerosol adhesive that meets any of the following definitions:

(1) "Mounting adhesive" means an aerosol adhesive designed to permanently mount photographs, artwork, and any other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork.

(2) "Flexible vinyl adhesive" means an aerosol adhesive designed to bond flexible vinyl to substrates.

(a) "Flexible vinyl" means a nonrigid polyvinyl chloride plastic with at least five percent, by weight, of plasticizer content.

(b) "Plasticizer" means a material such as a high boiling point organic solvent that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM Method E260-91 or from product formulation data.

(3) "Polystyrene foam adhesive" means an aerosol adhesive designed to bond polystyrene foam to substrates.

(4) "Automobile headliner adhesive" means an aerosol adhesive designed to bond together layers in motor vehicle headliners.

(5) "Polyolefin adhesive" means an aerosol adhesive designed to bond polyolefins to substrates.

(6) "Laminate repair/edgebanding adhesive" means an aerosol adhesive designed for:

(a) The touch-up or repair of items laminated with high pressure laminates (e.g., lifted edges, delaminates, etc.); or

(b) The touch-up, repair, or attachment of edgebonding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding, and decorative metals.

(c) For the purposes of this definition, "high pressure laminate" means sheet materials that consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265 degrees Fahrenheit, and at pressures between 1,000 and 1,400 psi.

(7) "Automotive engine compartment adhesive" means an aerosol adhesive designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200 to 275 degrees Fahrenheit.

"Spot remover" means any product designed to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal but does not include dry cleaning fluid, laundry prewash, carpet and upholstery cleaner, or multi-purpose solvent.

"Spray buff product" means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

"Stick product" means any antiperspirant or deodorant that contains active ingredients in a solid matrix form, and that dispenses the active ingredients by frictional action on the affected area.

"Structural waterproof adhesive" means an adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water, and that conforms with Federal Specification MMM-A-181 (Type 1, Grade A), and MIL-A-4605 (Type A, Grade A and Grade C). This definition is as per the Federal Consumer Products Regulation 40 CFR 59 Subpart C.

"Terrestrial" means to live on or grow from land.

"Temporary hair color" means any product that applies color, glitter, or UV-active pigments to hair, wigs, or fur and is removable when washed.

"Tire sealant and inflation" means any pressurized product that is designed to temporarily inflate and seal a leaking tire.

"Type A propellant" means a compressed gas such as CO<sub>2</sub>, N<sub>2</sub>, N<sub>2</sub>O, or compressed air which is used as a propellant, and is either incorporated with the product or contained in a separate chamber within the product's packaging.

"Type B propellant" means any halocarbon which is used as a propellant including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

"Type C propellant" means any propellant which is not a Type A or Type B propellant, including propane, isobutane, n butane, and dimethyl ether (also known as dimethyl oxide).

"Undercoating" means any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, or firewall of motor vehicles to prevent the formation of

rust or to deaden sound and includes, but is not limited to, rubberized, mastic, or asphaltic products.

"VOC content" means the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging).

"Wasp and hornet insecticide" means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects, or their hiding place.

"Waterproof" means a product designed and labeled exclusively to repel water from fabric or leather substrates. "Waterproof" does not include "Fabric Protectants".

"Wax" means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics) and includes, but is not limited to, substances derived from the secretions of plants and animals such as caruba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

"Web spray adhesive" means any aerosol adhesive which is not a mist spray or special purpose spray adhesive.

"Wood cleaner" means a product labeled to clean wooden materials, including but not limited to, decking, fences, flooring, logs, cabinetry, and furniture.

"Wood floor wax" means wax based products for use solely on wood floors.

**R307-357-4. Standards.**

(1) Except as provided in R307-357-6, 7, 8 and 9, no person shall sell, supply, offer for sale, or manufacture for sale any consumer product manufactured on or after the effective date in Table 1 that contains VOCs in excess of the limits specified in Table 1.

TABLE 1

Table of Standards  
(percent volatile organic compounds by weight)

CATEGORY	EFFECTIVE BEGINNING DATES		
	9/1/2014	1/1/2015	1/1/2016
<b>Adhesive Removers:</b>			
Floor and wall covering	5		
Gasket or thread locking	50		
General purpose	20		
Specialty	70		
<b>Adhesives:</b>			
Aerosol mist spray	65		
Aerosol web spray	55		
<b>Special Purpose Spray Adhesives:</b>			

Mounting, automotive Engine compartment, and flexible vinyl	70
Polystyrene foam and automotive headliner	65
Polyolefin and laminate repair/edgebanding	60
Construction, panel, and floor	7
Contact general purpose	55
Contact special purpose	80
General purpose	80
Structural waterproof	15
<b>Air Fresheners:</b>	
Single-phase aerosols	30
Double-phase aerosols	25
Dual-purpose air freshener/disinfectant aerosol	60
Liquids/pump sprays	18
Solids/semisolids	3
<b>Antiperspirants:</b>	
Aerosol	40 HVOC 10 MVOC
Non-aerosol	0 HVOC 0 MVOC
<b>Anti-static product:</b>	
Non-aerosol	11
Aerosol	80
Automotive rubbing or polishing compound	17
<b>Automotive wax, polish, sealant or Glaze:</b>	
Hard paste waxes	45
Instant detailers	3
All other forms	15
Automotive windshield washer fluids	35
<b>Bathroom and Tile Cleaners:</b>	
Aerosols	7
<del>All other forms</del>	<del>5</del>
<u>Non-aerosols</u>	<u>1</u>

Brake cleaner	10		
Bug and tar remover	40		Other forms 15
Carburetor or fuel-injection air intake cleaners	10		Furniture Maintenance Products:
Carpet and Upholstery Cleaners:			Aerosols 17
Aerosols	7		Non-aerosol (except solid or paste) 3
Non-aerosols (dilutables)	0.1		General Purpose Cleaners:
Non-aerosols (ready-to-use)	3.0		Aerosols 8
Cooking spray aerosols	18		Non-aerosols 4
Disinfectant:			General Purpose Degreasers:
Aerosol	70		Aerosols 10
non-aerosol	1		Non-aerosols 4
Deodorants:			Glass Cleaners:
Aerosol	0 HVOC 10 MVOC		Aerosols 12
Non-aerosol	0 HVOC 0 MVOC		Non-aerosols 4
Dusting Aids:			Graffiti Remover:
Aerosols	25		Aerosols 50
All other forms	7		Non-aerosols 30
Electrical cleaner	45		Hair mousses 6
Electronic cleaner	75		Hair shines 55
Engine Degreasers:			Hairsprays 55
Aerosol	10		Hair styling gels 6
Non-aerosol	5		Hair Styling Products:
Fabric protectants	60		Aerosol and pump sprays 6
Fabric refresher:			All other forms 2
Aerosol	15		Heavy-duty hand cleaners or soaps 8
Non-aerosol	6		Insecticides:
Floor Polishes or Waxes:			Crawling bug (aerosol) 15
Resilient flooring materials	1		Crawling bug (all other forms) 20
Nonresilient flooring materials	1		Flea and tick 25
Wood floor wax	90		Flying bug (aerosol) 25
Footwear or leather care products:			Flying bug (all other forms) 35
Aerosol	75		Foggers 45
Solid	55		Lawn and garden (all other forms) 20

Lawn and garden (non-aerosol)	3	
Wasp and hornet	40	
Laundry Prewashes:		
Aerosols/solids	22	
All other forms	5	
Laundry starch products	4.5	
Metal polishes/cleansers	30	
Multi-Purpose lubricants (excluding solid or semi-solid products)	50	
Multi-purpose Solvent	3	
Nail Polish Removers	1	
Non-selective terrestrial herbicides, non-aerosols	3	
Oven or Grill Cleaners:		
Aerosols/pump sprays	8	
<del>Liquids</del>	<del>5</del>	
<del>Non-aerosols</del>	<del>4</del>	
Paint remover or strippers	50	
Paint Thinner	<del>30</del>	[3] <del>3</del>
Penetrants	50	
Rubber <del>and</del> or Vinyl Protectants:		
Aerosols		10
Non-aerosols	3	
Sanitizer:		
Aerosol	70	
Non-aerosols	1	
Sealants and caulking compounds	4	
Shaving creams	5	
Shaving gel	4	
Silicone-based multi-purpose lubricants (excluding solid or semi-solid products)	60	
Spot Removers:		
Aerosols	25	
Non-aerosols	8	

Temporary hair color aerosol	55
Tire sealants and inflators	20
Toilet/urinal care:	
Aerosols	10
Non-aerosol	3
Undercoatings, aerosols	40
Wood Cleaner:	
Aerosol	17
Non-Aerosol	4

(2) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in Table 1 shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection, "minimum recommended dilution" shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard to remove soils or stains.

(3) For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOC solvent prior to use, the limits specified in Table 1 shall apply to the product only after the maximum recommended dilution has taken place.

(4) Effective September 1, 2016, no person shall sell, supply, offer for sale, or manufacture for use any aerosol adhesive, adhesive removers, and graffiti removers that contain methylene chloride, perchloroethylene, or trichloroethylene.

Sell-through products of aerosol adhesive, adhesive removers, and graffiti removers that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before ~~January~~ September 1, 2016, may be sold, supplied, or offered for sale so long as the product container or package displays the date on which the product was manufactured.

(5) No person shall sell, supply, offer for sale, or manufacture any floor wax stripper unless the following requirements are met:

(a) The label of each non-aerosol floor wax stripper shall specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3% by weight or less.

(b) If a non-aerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper shall specify a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of 12% by weight or less.

(6) Products containing ozone-depleting compounds. For any consumer product for which standards are specified under R307-357-4, no person shall sell, supply, offer for sale, or manufacture for sale any consumer product that contains any of the following ozone-depleting compounds:

- (a) CFC 11 (trichlorofluoromethane);
- (b) CFC 12 (dichlorodifluoromethane);
- (c) CFC 113 (1,1,1 trichloro 2,2,2 trifluoroethane);

(d) CFC 114 (1 chloro 1,1 difluoro 2 chloro 2,2 difluoroethane);

(e) CFC 115 (chloropentafluoroethane);

(f) Halon 1211 (bromochlorodifluoromethane);

(g) Halon 1301 (bromotrifluoromethane);

(h) Halon 2402 (dibromotetrafluoroethane);

(i) HCFC 22 (chlorodifluoromethane);

(j) HCFC 123 (2,2 dichloro 1,1,1 trifluoroethane);

(k) HCFC 124 (2 chloro 1,1,1,2 tetrafluoroethane);

(l) HCFC 141b (1,1 dichloro 1 fluoroethane);

(m) HCFC 142b (1 chloro 1,1 difluoroethane);

(n) 1,1,1 trichloroethane; and

(o) Carbon tetrachloride.

(7) The requirements of R307-357-4(6) shall not apply to any existing product formulation that complies with Table 1 or any existing product formulation that is reformulated to meet the standards set in Table 1, provided the ozone-depleting compound content of the reformulated product does not increase.

(8) The requirements of R307-357-4(6) shall not apply to any ozone-depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.

#### **R307-357-5. Charcoal Lighter Material Products.**

No person shall sell, supply, or offer for sale any charcoal lighter material products unless the product has been issued and conforms to the conditions in a currently effective certification issued by the CARB pursuant to the provisions of 17 CCR 94509(h) as of the effective date of R307-357. A copy of the CARB certification decision shall be submitted to the director upon request.

#### **R307-357-6. Exemptions.**

(1) R307-357 shall not apply to any consumer product manufactured for shipment and use outside of the counties specified in R307-357-2 as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of the applicable counties and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to the applicable counties.

(2) The medium volatility organic compound (MVOC) content standards specified in Table 1 for antiperspirants or deodorants shall not apply to ethanol.

(3) The VOC limits specified in Table 1 shall not apply to fragrances up to a combined level of 2% by weight contained in any consumer product and shall not apply to colorants up to a combined level of 2% by weight contained in any antiperspirant or deodorant.

(4) The requirements in Table 1 for antiperspirants or deodorants shall not apply to those VOCs that contain more than ten carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of two mm Hg or less at 20 degrees Celsius.

(5) The VOC limits specified in Table 1 shall not apply to any LVP-VOC.

(6) The requirements of R307-357-10 shall not apply to consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act, (FIFRA; 7 U.S.C. Section 136/136y).

(7) The VOC limits specified in Table 1 shall not apply to air fresheners that are comprised entirely of fragrance, less compounds, not defined as VOCs or exempted under R307-357-6.

(8) The VOC limits specified in Table 1 shall not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene.

(9) The VOC limits specified in Table 1 shall not apply to adhesives [~~set~~]in containers of one fluid ounce or less.

(10) The VOC limits specified in Table 1 shall not apply to bait station insecticides.

#### **R307-357-7. Innovative Products.**

(1) Consumer products that have been granted an innovative products exemption by the CARB under provisions of 17 CCR 94511 as of the effective date of R307-357, shall be exempt from the VOC content limits in listed in Table 1 for the period of time that the innovative product exemption remains in effect.

(2) Any manufacturer claiming such an exemption shall submit to the director upon request, a copy of the CARB exemption decision, including all conditions established by CARB applicable to the exemption before the date that the product is first marketed in the applicable counties.

#### **R307-357-8. Alternate Control Plan (ACP).**

(1) Any manufacturer of consumer products who has been granted an ACP agreement by the CARB under provisions of 17 CCR 94540-94555[~~5~~] as of the effective date of R307-357 shall be exempt from complying with the VOC content limits established in Table 1 for the period of time that the ACP agreement remains in effect.

(2) Any manufacturer claiming an ACP agreement shall submit upon request to the director a copy of the ACP decision, including all conditions applicable to the exemption before the date that the product is first marketed in the applicable counties.

#### **R307-357-9. Variances.**

(1) Consumer products that have been granted a variance by the CARB under the provisions of 17 CCR 9451[~~4~~]<sup>4</sup> as of the effective date of this rule shall be exempt from complying with the VOC content limits established in Table 1 for the period of time that the variance remains in effect.

(2) Any person claiming a variance shall submit a copy of the variance decision to the director upon request, including all conditions applicable to the variance before the date that the product is first marketed in the applicable counties.

#### **R307-357-10. Administrative Requirements.**

(1) Product Dating. Each manufacturer of a consumer product subject to the standards established in Table 1 shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date.

(a) A manufacturer who uses the following code to indicate the date of manufacture shall not be subject to the requirements of R307-357-10(3)[~~(a)~~] if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD = year year day day day where:

"YY" = two digits representing the year in which the product was manufactured, and

"DDD" = three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (i.e. the "Julian date").

(b) The date information shall be located on the container or inside the cover or cap so that it is readily observable or obtainable by simply removing the cap or cover without disassembling any part of the container or packaging.

(c) The date information shall be displayed on each consumer product container or package no later than twelve months prior to the effective date of the applicable standard specified in Table 1.

(d) No person shall erase, alter, deface or otherwise remove or make illegible any date from any regulated product container without the express authorization of the manufacturer.

(2) The requirements of this provision shall not apply to products containing no VOCs or to products containing VOCs at 0.10% by weight or less.

(3) If a manufacturer uses a code indicating the date of manufacture, for any consumer product subject to R307-357-4, an explanation of the date portion of the code shall be supplied to the director within 30 day of written request.

(4) Notwithstanding the definition of product category in R-307-357-3, if anywhere on the container or packaging of any consumer product manufactured on or after the effective date specified in Table 1, or one year thereafter for any FIFRA-registered insecticide, or on any sticker or label affixed thereto, any representation is made that the product may be used as, or is suitable for use as, a consumer product for which a lower VOC limit is specified in R307-357-4, then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products or insecticide foggers.

(5) Notwithstanding the provisions of R307-357-10(4), a product that makes ancillary disinfecting, sanitizing, or antimicrobial claims on the label is not subject to the VOC standards for disinfectant or sanitizer if the product is designed and labeled on the principal display panel as a bathroom and tile cleaner, carpet/upholstery cleaner, fabric refresher, general purpose cleaner, glass cleaner, metal polish or cleanser.

#### **R307-357-11. Reporting Requirements.**

(1) Upon 90 days written notice, the director may require any responsible party to report information for any consumer product or products the director may specify including, but not limited to, all or part of the following information:

(a) The name of the responsible party and the party's address, telephone number, and designated contact person;

(b) The product brand name for each consumer product subject to registration and the product label;

(c) The product category to which the consumer product belongs;

(d) The applicable product forms listed separately;

(e) An identification of each product brand name and form as a "household product," "I&I Product," or both;

(f) Separate sales applicable counties in pounds per year, to the nearest pound, and the method used to calculate the sales for each product form;

(g) For registrations submitted by two companies, an identification of the company that is submitting relevant data separate from that submitted by the responsible party;

(h) For each product brand name and form, the net percent by weight of the total product, less container and packaging, comprised of the following, rounded to the nearest one tenth of a percent:

(i) Total non-VOC compounds.

(ii) Total LVP-VOCs that are not fragrances.

(iii) Total all other carbon containing compounds that are not fragrances.

(iv) Total all non-carbon containing compounds.

(v) Total fragrance.

(vi) For products containing greater than two% by weight fragrance:

(A) The percent of fragrance that are LVP-VOCs; and

(B) The percent of fragrance that are all other carbon containing compounds.

(vii) Total paradichlorobenzene.

(i) For each product brand name and form, the identity, including the specific chemical name and associated chemical abstract services (CAVES) number, of the following:

(i) Each non-VOC Compound; and

(ii) Each LVP-VOC that is not a fragrance.

(j) If applicable, the weight percent comprised of propellant for each product;

(k) If applicable, an identification of the type of propellant (Type A, Type B, Type C, or a blend of the different types).

(2) In addition to the requirements of section R307-357-11(1), the responsible party shall report or shall arrange to have reported to the director the net percent by weight of each ozone-depleting compound which is:

(a) Listed in R307-357-4(6); and

(b) Contained in a product subject to registration under R307-357-11(1) in any amount greater than 0.1 percent by weight.

(3) For the purpose of R307-357-11 "product form" means the applicable form which most accurately describes the product's dispensing form as follows:

A = Aerosol Product

S = Solid

P = Pump Spray

L = Liquid

SS = Semisolid

O = Other

#### **R307-357-12. Special Reporting Requirements for Consumer Products that Contain Perchloroethylene or Methylene Chloride.**

(1) The requirements of R307-357-12 shall apply to all responsible parties for consumer products that are subject to the standards established in Table 1 and contain perchloroethylene or methylene chloride.

(a) For the purposes of this subsection, a product contains perchloroethylene or methylene chloride if the product contains 1.0% or more by weight (exclusive of the container or packaging) of either perchloroethylene or methylene chloride.

(2) For each consumer product that contains perchloroethylene or methylene chloride, upon request from the



director, the responsible party shall report the following information for products sold in the applicable counties within 90 days written notice:

- (a) The product brand name and a copy of the product label with legible usage instructions;
- (b) The product category to which the consumer product belongs;
- (c) The applicable product forms (listed separately);
- (d) For each product form listed in R307-357-12(2)(c), the total sales in the applicable counties during the calendar year, to the nearest pound (exclusive of the container or packaging), and the method used for calculating the sales; and
- (e) The weight percent, to the nearest 0.10 percent, of perchloroethylene and methylene chloride in the consumer product.

**R307-357-13. Test Methods.**

Testing to determine compliance with the requirements of this regulation shall be performed using the CARB Method 310, Determination of Volatile Organic Compounds in Consumer Products, which is herein incorporated by reference.

**R307-357-14. VOC Content Determinations Using Product Formulation and Records.**

(1) Testing to determine compliance with the requirements of R307-357 may also be demonstrated through calculation of the VOC content from records of the amounts of constituents used to make the product pursuant to the following criteria:

(a) Compliance determinations based on these records may not be used unless the manufacturer of a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents, and these records must be kept for at least three years.

(b) For the purposes of R307-357-13, the VOC content shall be calculated according to the following equation:

$$\text{VOC Content} = ((B-C)/A) \times 100$$

where, A = total net weight of unit (excluding container and packaging)

B = total weight of all VOCs, as defined in Table 1, per unit

C = total weight of VOCs exempted under R307-357-6, per unit

(c) If product records appear to demonstrate compliance with the VOC limits, but these records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of this regulation.

**R307-357-15. Determination of Liquid or Solid.**

Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359- 90 (20[00]12).

**KEY: air pollution, consumer products**

**Date of Enactment or Last Substantive Amendment: 2013**

**Authorizing, and Implemented or Interpreted Law: 19-2-101**

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



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the 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, Conservation and Resource Management

### **R64-2**

#### Utah Conservation Commission Proposed Electronic Meetings

##### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37698  
FILED: 06/04/2013

##### **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: Pursuant to Sections 52-4-207 and 4-18-105, electronic meetings were set up to facilitate meetings when a group cannot meet in person because of weather, or travel expenses.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: On occasions there are needs to have an electronic meeting versus a face to face meeting because of travel restrictions or weather restrictions. The rule also provides an opportunity to save on travel expenses for board members. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
CONSERVATION AND RESOURCE  
MANAGEMENT

350 N REDWOOD RD

SALT LAKE CITY, UT 84116-3034

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ 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)
- ◆ Thayne Mickelson by phone at 801-538-7171, by FAX at 801-538-9436, or by Internet E-mail at [tmickelson@utah.gov](mailto:tmickelson@utah.gov)

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 06/04/2013

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## Agriculture and Food, Plant Industry

### **R68-9**

#### Utah Noxious Weed Act

##### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37700  
FILED: 06/06/2013

##### **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)(i) which requires the Department to adopt rules necessary for the effective administration of the agricultural laws of the state according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act. It also provides authority to the Department to establish and enforce the Noxious Weed Act to protect against destructive plant pests.

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 opposing or supporting this 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: Noxious and invasive weeds pose an ongoing risk to the economy, wildlife, and environment of the State of Utah. Noxious weeds are identified in order to control, manage and eliminate those undesirable plant species. Left unmanaged, noxious weeds reproduce at an alarming rate displacing native plant species and changing ecosystems. Plant material from invasive species is undesirable for feed to wildlife animals and poses a very high risk for catastrophic wildfires which cost the State millions of dollars to control. 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:  
 ♦ 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  
 ♦ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov

AUTHORIZED BY: Leonard Blackham, Commissioner

EFFECTIVE: 06/06/2013

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**Education, Administration**  
**R277-403**  
**Student Reading Proficiency and**  
**Notice to Parents**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 37708  
 FILED: 06/10/2013

**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-1-401(3) allows 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.

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 necessary information to local education agencies for administration of benchmark assessments to students. 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: 06/10/2013

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**Education, Administration**  
**R277-406**  
**K-3 Reading Improvement Program**  
**and the State Reading Goal**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 37709  
 FILED: 06/10/2013

**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-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities and Subsection 53A-17a-150(14)(a) directs the Board to develop rules for implementing the K-3 Reading Improvement 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 written comment has 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 continues to be necessary because it outlines the responsibilities of the Utah State Board of Education/Utah State Office of Education and local education agencies for implementation of the K-3 Reading Improvement Program. 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: 06/10/2013

Education, Administration  
**R277-477**

Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 37710  
FILED: 06/10/2013

**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-16-101.5(3)(c) allows the Utah State Board of Education (Board) to adopt rules regarding the time and manner in which the student count shall be made for allocation of school LAND trust funds, and by Subsection 53A-1-401(3) which allows the Board 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.

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 allocation of School LAND Trust monies to schools and oversight of appropriate expenditure of monies. 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: 06/10/2013

Education, Administration  
**R277-490**

Beverley Taylor Sorenson Elementary Arts Learning Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 37711  
FILED: 06/10/2013

**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-1-401(3) allows 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.

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 implementation of the Beverley Taylor Sorenson Elementary Arts Learning Program model in public schools and to distribute funds to arts specialists through school districts and charter schools to make approved expenditures. 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: 06/10/2013

Education, Administration  
**R277-525**  
Special Educator Stipends

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 37712  
FILED: 06/10/2013

**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-1-401(3) allows 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.

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 distributing money appropriated for stipends for special educators for additional days of work. 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: 06/10/2013

Education, Administration  
**R277-602**  
Special Needs Scholarships - Funding  
and Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 37713  
FILED: 06/10/2013

**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-1a-706(5)(b) provides for the Utah State Board of Education (Board) to adopt rules with timelines for payments to private schools and Subsection 53A-1-401(3) which allows the Board 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.

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, procedures and timelines for participation of schools and students in the Special Needs Scholarship Program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
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 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: 06/10/2013

Education, Administration  
**R277-617**  
 Smart School Technology Program

End of the Five-Year Notices of Review and Statements of Continuation Section

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 37714  
 FILED: 06/10/2013

**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-1-401(3) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities and Subsection 53A-1-709(8)(d) directs the Board to make rules specifying procedures and criteria to be used for selecting schools that may participate in the Smart School Technology 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 written comment has 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 continues to be necessary because it provides criteria and procedures for the Board to select schools to participate in the Smart School Technology Program. 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: 06/10/2013





## 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

### Administrative Services

#### Fleet Operations

No. 37392 (AMD): R27-3-5.Personal Use Standards

Published: 04/01/2013

Effective: 06/07/2013

### Commerce

#### Occupational and Professional Licensing

No. 37526 (AMD): R156-24b-503.Physical Therapist

Supervisory Authority and Responsibility

Published: 05/01/2013

Effective: 06/10/2013

### Education

#### Administration

No. 37509 (AMD): R277-469.Instructional Materials

Commission Operating Procedures

Published: 05/01/2013

Effective: 06/07/2013

No. 37510 (AMD): R277-508.Employment of Substitute

Teachers

Published: 05/01/2013

Effective: 06/07/2013

No. 37511 (AMD): R277-751.Special Education Extended

School Year (ESY)

Published: 05/01/2013

Effective: 06/07/2013

### Rehabilitation

No. 37512 (AMD): R280-200.Rehabilitation

Published: 05/01/2013

Effective: 06/07/2013

### Health

#### Family Health and Preparedness, Children with Special

#### Health Care Needs

No. 37381 (AMD): R398-1.Newborn Screening

Published: 04/01/2013

Effective: 07/01/2013

#### Family Health and Preparedness, Licensing

No. 37442 (AMD): R432-31.Life with Dignity Order

Published: 04/15/2013

Effective: 06/07/2013

### Insurance

#### Administration

No. 37515 (AMD): R590-93.Replacement of Life Insurance

and Annuities

Published: 05/01/2013

Effective: 06/11/2013

### Workforce Services

#### Unemployment Insurance

No. 37517 (AMD): R994-403.Claim for Benefits

Published: 05/01/2013

Effective: 06/12/2013

No. 37516 (AMD): R994-406-403.Fraud Disqualification and

Penalty

Published: 05/01/2013

Effective: 06/12/2013

**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, 2013 through June 14, 2013. 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).

**DAR NOTE:** Due to space constraints, neither Index is included in this Bulletin.

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 (5110 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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