

**The State of Utah Labor Commission  
Division of Boiler, Elevator and Coal Mine Safety**

**UTAH CODE**

**Title 40 – Chapter 2 – Coal Mine Safety Act  
Rule 616-1. Coal Mine Rule  
Rule 616-4. Coal Mine Safety**

**Title 34A - Chapter 7 - Part 1 - Boilers and Pressure Vessels  
Rule 616-2. Boiler and Pressure Vessel Rule**

and

**Title 34A - Chapter 7 - Part 2 - Elevator and Escalator Safety Act  
Rule 616-3. Elevator Rule**



**UTAH  
LABOR COMMISSION**  
Boiler, Elevator and Coal Mine Safety Division

---

## UTAH CODE: Title 40 – Chapter 2 – Coal Mine Safety Act

### 40-2-101. Title.

This chapter is known as the "Coal Mine Safety Act."

### 40-2-102. Definitions.

As used in this chapter:

- (1) "Adverse action" means to take any of the following actions against a person in a manner that affects the person's employment or contractual relationships:
  - (a) discharge the person;
  - (b) threaten the person;
  - (c) coerce the person;
  - (d) intimidate the person; or
  - (e) discriminate against the person, including to discriminate in:
    - (i) compensation;
    - (ii) terms;
    - (iii) conditions;
    - (iv) location;
    - (v) rights;
    - (vi) immunities;
    - (vii) promotions; or
    - (viii) privileges.
- (2) "Coal mine" means:
  - (a) the following used in extracting coal from its natural deposits in the earth by any means or method:
    - (i) the land;
    - (ii) a structure;
    - (iii) a facility;
    - (iv) machinery;
    - (v) a tool;
    - (vi) equipment;
    - (vii) a shaft;
    - (viii) a slope;
    - (ix) a tunnel;
    - (x) an excavation; and
    - (xi) other property; and
  - (b) the work of preparing extracted coal, including a coal preparation facility.
- (3) "Commission" means the Labor Commission created in Section 34A-1-103.
- (4) "Commissioner" means the commissioner appointed under Section 34A-1-201.
- (5) "Council" means the Mine Safety Technical Advisory Council created in Section 40-2-203.
- (6) "Director" means the director of the Utah Office of Coal Mine Safety appointed under

Section 40-2-202.

- (7) "Major coal mine accident" means any of the following at a coal mine located in Utah:
  - (a) a mine explosion;
  - (b) a mine fire;
  - (c) the flooding of a mine;
  - (d) a mine collapse; or
  - (e) the accidental death of an individual at a mine.
- (8) "Mine Safety and Health Administration" means the federal Mine Safety and Health Administration within the United States Department of Labor.
- (9) "Office" means the Utah Office of Coal Mine Safety created in Section 40-2-201.
- (10) "Panel" means the Coal Miner Certification Panel created in Section 40-2-204.
- (11) "Unsafe condition" means a danger that reasonably could be expected to cause serious harm to a person or property.

**40-2-103. Scope and administration of chapter.**

- (1) This chapter applies to any coal mine located in the state.
- (2) The commission:
  - (a) shall administer this chapter with the assistance of the office; and
  - (b) has jurisdiction over a coal mine in this state as set forth in this chapter.

**40-2-104. Rulemaking authority.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules necessary to implement this chapter.

**40-2-201. Utah Office of Coal Mine Safety created.**

- (1) There is created within the commission the "Utah Office of Coal Mine Safety."
- (2) The office, under the direction of the commissioner, shall assist the commission in administering this chapter.

**40-2-202. Appointment of director.**

- (1) The director is the chief officer of the office and serves as the executive and administrative head of the office.
- (2)
  - (a) The commissioner shall appoint the director.
  - (b) The director may be removed from that position at the will of the commissioner.
- (3) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

- (4) The director shall be experienced in administration and possess such additional qualifications as determined by the commissioner.

**40-2-203. Mine Safety Technical Advisory Council created -- Duties.**

- (1) Within the office there is created the "Mine Safety Technical Advisory Council" consisting of 13 voting members and 5 nonvoting members as provided in this section.
- (2) (a) The commissioner shall appoint the voting members of the council as follows:
- (i) one individual who represents a coal miner union;
  - (ii) two individuals with coal mining experience;
  - (iii) two individuals who represent coal mine operators;
  - (iv) one individual who represents an industry trade association;
  - (v) two individuals from local law enforcement agencies or emergency medical service providers;
  - (vi) three individuals who have expertise in one or more of the following:
    - (A) seismology;
    - (B) mining engineering;
    - (C) mine safety; or
    - (D) another related subject; and
  - (vii) two individuals from entities that provide mine safety training.
- (b) The nonvoting members of the council are:
- (i) the commissioner or the commissioner's designee;
  - (ii) the executive director of the Department of Natural Resources or the executive director's designee;
  - (iii) the commissioner of the Department of Public Safety or the commissioner's designee;
  - (iv) a representative of the Mine Safety and Health Administration selected by the Mine Safety and Health Administration; and
  - (v) a representative of the federal Bureau of Land Management selected by the federal Bureau of Land Management.
- (3) (a) Except as required by Subsection (3)(b), a voting member shall serve a four-year term beginning July 1 and ending June 30.
- (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment of the initial voting members of the council, adjust the length of terms of the voting members to ensure that the terms of voting members are staggered so that approximately half of the voting members are appointed every two years.
- (4) (a) The commissioner shall terminate the term of a voting member who ceases to be representative as designated by the voting member's original appointment.
- (b) If a vacancy occurs in the voting members, the commissioner shall appoint a replacement for the unexpired term after soliciting recommendations from the council members.
- (5) (a) The council shall meet at least quarterly.
- (b) A majority of the voting members constitutes a quorum.
- (c) A vote of the majority of the members of the council when a quorum is present

- constitutes an action of the council.
- (6)
    - (a) The commissioner or the commissioner's designee is the chair of the council.
    - (b) The commission shall staff the council.
  
  - (7)
    - (a)
      - (i) A member who is not a state or local government employee may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
      - (ii) A member who is not a state or local government employee may decline to receive per diem and expenses for the member's service.
    - (b)
      - (i) A state government officer and employee member who does not receive salary, per diem, or expenses from the agency the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
      - (ii) A state government officer and employee member may decline to receive per diem and expenses for the member's service.
    - (c)
      - (i) A local government member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
      - (ii) A local government member may decline to receive per diem and expenses for the member's service.
  
  - (8) The council shall advise and make recommendations to the commission, the office, and the Legislature regarding:
    - (a) safety of coal mines located in Utah;
    - (b) prevention of coal mine accidents;
    - (c) effective coal mine emergency response;
    - (d) coal miner certification and recertification; and
    - (e) other topics reasonably related to safety of coal mines located in Utah.

**40-2-204. Coal Miner Certification Panel created -- Duties.**

- (1) There is created within the office the "Coal Miner Certification Panel."
  
- (2) The panel consists of:
  - (a) the commissioner or the commissioner's designee; and
  - (b) at least eight other members appointed by the commissioner with equal representation and participation from:
    - (i) management of coal mine operations;
    - (ii) hourly coal mining employees.
  
- (3) A member appointed by the commissioner shall:
  - (a) have at least five years' experience in coal mining in this state;
  - (b) administer the certification test to an applicant referred to in Section 40-2-402;

- (c) consult with the commission about applicant qualifications specified in Section 40-2-402;
  - (d) meet when directed by the commissioner or the commissioner's designee; and
  - (e) hold office at the pleasure of the commissioner.
- (4) A panel member who is not a government employee may not receive compensation or benefits for the member's services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

**40-2-301. Commission and office responsibilities.**

- (1) The commissioner shall:
  - (a) direct the state's efforts to promote coal mine safety; and
  - (b) participate with the Mine Safety and Health Administration in an investigation of a major coal mine accident in Utah.
- (2) The commission shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) a system consistent with Section 40-2-302 to receive, evaluate, and act on a report of an alleged unsafe condition at a coal mine; and
  - (b) requirements for a coal mine operator regarding notification of a coal mine accident as part of a coal mine operator's emergency response plan.
- (3) The office may:
  - (a) conduct one or more studies to promote coal mine safety;
  - (b) cooperate with educational and other organizations to promote mining engineering and mine safety training;
  - (c) establish a cooperative relationship with the Mine Safety and Health Administration to promote coal mine safety in Utah;
  - (d) serve as the lead state agency in developing and implementing state and local response and communication plans for major coal mine accidents in Utah; and
  - (e) implement the notification requirements established under Subsection (2)(b).

**40-2-302. Reporting of an unsafe condition in coal mines -- Adverse action prohibited.**

- (1) Subject to the other provisions of this section, upon the office's receipt of information from a person of a possible unsafe condition in a coal mine located in Utah, the office may:
  - (a) notify the federal Mine Safety and Health Administration;
  - (b) notify another appropriate federal, state, or local government agency;
  - (c) contact the operator of the coal mine;
  - (d) refer the information to the council on a confidential basis; or
  - (e) take any other authorized action.
- (2) The commission, council, or office may not disclose or otherwise make public the identity of a person who reports a possible unsafe condition in a coal mine located in Utah unless that person authorizes the commission, council, or office to disclose the person's identity.

- (3) A coal mine operator may not take adverse action against a person because that person:
  - (a) reports an alleged unsafe mine condition; or
  - (b) testifies, assists, or participates in any manner in an investigation, proceeding, or hearing under this chapter.

#### **40-2-303. Annual report on coal mine safety.**

- (1) By October 1 of each year, the commission, office, and council shall compile and submit to the governor and the Legislature a comprehensive report of the status of coal mine safety within the state for the immediately preceding calendar year.
- (2) The report required by this section shall include:
  - (a) a compilation of major coal mine accidents or other coal mine emergencies within the state during the calendar year;
  - (b) a statement of actions by the commission, office, or council to implement this chapter;
  - (c) without a breach in confidentiality, a summary of reports of alleged unsafe conditions received by the office, with a statement of the office's responses;
  - (d) recommendations for additional action to promote coal mine safety; and
  - (e) any other items the commission, office, and council consider appropriate.

#### **40-2-401. Necessity of certificate.**

- (1) A person may not work in an occupation referred to in Section 40-2-402 unless granted a certificate by the commission.
- (2)
  - (a)
    - (i) The commission may grant a temporary coal mine foreman certificate or a temporary coal mine surface foreman certificate to an applicant who is:
      - (A) recommended by a coal mine; and
      - (B) interviewed and found competent by two panel members.
    - (ii) A certificate granted under Subsection (2)(a)(i) remains in effect until:
      - (A) the next scheduled certification test;
      - (B) the person is retested; or
      - (C) the commission terminates the certificate.
  - (b)
    - (i) The commission may grant a surface foreman certificate to a current holder of an underground mine foreman certificate, if the applicant has three years of varied surface mining experience.
    - (ii) A surface foreman certificate applicant may receive credit for surface experience in any other industry that has substantially equivalent surface facilities, if the applicant has performed or is presently performing the duties normally required of a surface foreman.
- (3)
  - (a) The commission shall collect a fee described in Subsection (3)(b) for each temporary certificate.
  - (b) The commission shall establish the fee by following Section 63J-1-303.
- (4)
  - (a) An owner, operator, contractor, lessee, or agent may not employ a worker in

any occupation referred to in Section 40-2-402 who is uncertified.

- (b) The certificate shall be on file and available for inspection to interested persons in the office of the coal mine.
- (5) The commission shall grant a certificate to an applicant referred to in Section 40-2-402 who:
  - (a) passes the certification test administered by the panel; and
  - (b) meets the qualifications specified in Section 40-2-402.
- (6)
  - (a) The commission may grant a certificate to an applicant involved in gilsonite or other hydrocarbon mining as provided by rule.
  - (b) The commission shall enact rules governing the certification procedure, test, and qualifications for applicants involved in gilsonite or other hydrocarbon mining.
- (7) The commission may by rule require certification and recertification of other coal mine occupations, including the certification of a new coal miner.

#### **40-2-402. Certification requirements.**

- (1) The commission shall collect a fee for:
  - (a) the taking of a certification test; or
  - (b) the retaking of one or more sections of a certification test.
- (2)
  - (a) The commission shall establish fees by following Section 63J-1-303.
  - (b) Notwithstanding Subsection 63J-1-303(2)(e), the commission:
    - (i) shall retain the fees as dedicated credits; and
    - (ii) may only use the fees to administer the certification test.
- (3) An applicant who fails any section of the certification test may retake that section of the test.
- (4)
  - (a) An applicant who wishes to obtain a mine foreman certificate shall have at least four years varied underground coal mining experience, of which:
    - (i) two years' experience may be credited to a mining engineering graduate of an accredited four-year college; or
    - (ii) one year's experience may be credited to a graduate of a two-year course in mining technology.
  - (b)
    - (i) An applicant who wishes to obtain a surface foreman certificate shall have at least three years of varied surface experience.
    - (ii) The commission may grant a surface foreman certificate applicant credit for surface experience in any other industry that has substantially equivalent surface facilities.
  - (c) An applicant who wishes to obtain a fire boss certificate shall have at least two years of underground coal mining experience, of which:
    - (i) one year's experience may be credited to a mining engineering graduate of an accredited four-year college; or
    - (ii) six months' experience may be credited to a graduate of a two-year course in mining technology.
  - (d) An applicant who wishes to obtain an underground mine electrician certificate shall have at least one year of varied electrical experience as specified in 30 C.F.R. Sec.



75.153.

- (e) An applicant who wishes to obtain a surface mine electrician certificate shall have at least one year of varied surface electrical experience as specified in 30 C.F.R. Sec. 77.103.
- (5) A certificate granted under Section 40-2-401 and this section shall expire if the certificate holder ceases to work in the mining industry or a mine related industry for more than five consecutive years.

## **R616. Labor Commission, Boiler and Elevator Safety.**

### **R616-1. Coal, Gilsonite, or other Hydrocarbon Mining Certification.**

#### **R616-1-1. Authority and Purpose.**

This rule is established pursuant to Section 40-2-1.1 and Section 40-2-14, which authorize the Labor Commission to enact rules governing the certification of individuals to work in the positions of underground mine foreman, surface mine foreman, fire boss, underground electrician or surface electrician in coal mines, gilsonite mines or other hydrocarbon mines in Utah.

#### **R616-1-2. Definitions.**

- A. "Commission" means the Labor Commission created in Section 34A-1-103.
- B. "Division" means the Division of Boiler and Elevator Safety of the Labor Commission.
- C. "Certification" means a person being judged competent and qualified by the Division for a mining position identified in Section 40-2-15 by meeting standards established by the Division and the examining panel pursuant to the requirements in Sections 40-2-14 through 16.

#### **R616-1-3. Fees.**

As required by Section 40-2-15, the Labor Commission shall establish and collect fees for certification sufficient to fund the Commission's miner certification process. The Commission's fees schedule shall be submitted to the Legislature for approval pursuant to Section 63-38-3(2).

#### **R616-1-4. Code of Federal Regulations.**

The provisions of 30 CFR, sections 1 through 199, "Federal Underground Coal Mine Safety Standards," 11th ed., July 1, 1996, are hereby incorporated by reference.

#### **R616-1-5. Initial Agency Action.**

Division action either granting or denying an applicant's application for certification are classified as informal adjudicative actions pursuant to Section 63-46b-4 of the Utah Administrative Procedures Act and shall be adjudicated accordingly.

**KEY: certification, labor, mining**

**Date of Enactment or Last Substantive Amendment: May 23, 2007**

**Notice of Continuation: May 28, 2003**

**Authorizing, and Implemented or Interpreted Law: 34A-1-104; 40-2-1 et seq.**

## **R616. Labor Commission, Boiler and Elevator Safety.**

### **R616-4. Coal Mine Safety.**

#### **R616-4-1. Authority and Purpose.**

This rule is established pursuant to authority granted the Commission by 40-2-104 and 40-2-301(2) for the purpose of improving coal mine safety, preventing coal mine accidents, and improving coal mine accident response consistent with the Coal Mine Safety Act.

#### **R616-4-2. Definitions.**

As used in this rule, the terms listed below shall have the same definition as set forth in the Coal Mine Safety Act, as follows.

- (1) "Adverse action" means to take any of the following actions against a person in a manner that affects the person's employment or contractual relationships:
  - (a) discharge the person;
  - (b) threaten the person;
  - (c) coerce the person;
  - (d) intimidate the person; or
  - (e) discriminate against the person, including to discriminate in:
    - (i) compensation;
    - (ii) terms;
    - (iii) conditions;
    - (iv) location;
    - (v) rights;
    - (vi) immunities;
    - (vii) promotions; or
    - (viii) privileges.
  
- (2) "Coal mine" means:
  - (a) the following used in extracting coal from its natural deposits in the earth by any means or method:
    - (i) the land;
    - (ii) a structure;
    - (iii) a facility;
    - (iv) machinery;
    - (v) a tool;
    - (vi) equipment;
    - (vii) a shaft;
    - (viii) a slope;
    - (ix) a tunnel;

- (x) an excavation; and
  - (xi) other property; and
  - (b) the work of preparing extracted coal, including a coal preparation facility.
- (3) "Commission" means the Labor Commission created in 34A-1-103.
  - (4) "Commissioner" means the commissioner appointed under 34A-1-201.
  - (5) "Council" means the Mine Safety Technical Advisory Council created in 40-2-203.
  - (6) "Director" means the Director of the Utah Office of Coal Mine Safety appointed under 40-2-202.
  - (7) "Major coal mine accident" means any of the following (but not limited too) at a coal mine located in Utah:
    - (a) a mine explosion;
    - (b) a mine fire;
    - (c) the flooding of a mine;
    - (d) a mine collapse; or
    - (e) the accidental death of an individual at a mine.
  - (8) "Mine Safety and Health Administration" and "MSHA" means the federal Mine Safety and Health Administration within the United States Department of Labor.
  - (9) "Office" means the Utah Office of Coal Mine Safety created in 40-2-201.
  - (10) "Unsafe condition" means a danger that reasonably could be expected to cause serious harm to a person or property.

### **R616-4-3. Examining Coal Mines.**

- (1) Pursuant to 34A-1-406 and other provisions of Utah Law, representatives of the Utah Labor Commission are authorized to enter places of employment, including coal mines, for purposes of "examining the provisions made for the health and safety of the employees in the place of employment."
- (2) If the Director of the Office of Coal Mine Safety determines that the safety of an employee is or will be endangered by activities or conditions in a coal mine, the Director may:
  - (a) notify the employee and mine management of the danger and specify actions necessary to remedy the danger;
  - (b) notify the Mine Safety and Health Administration of the danger;
  - (c) notify other appropriate federal, state, and local government agencies; and
  - (d) take such other action as authorized by law to eliminate or mitigate the danger.

#### **R616-4-4. Accident Notification Requirements.**

- (1) After the occurrence of any coal mine accident that is required by MSHA or regulations 30 CFR Part 50 to be immediately reported to MSHA, a coal mine operator shall first notify MSHA of the accident. Immediately after completing its report to MSHA, the coal mine operator shall then report the accident to the Office of Coal Mine Safety at telephone number 1-888-988-6463.

#### **R616-4-5. Emergency Response Training.**

- (1) Beginning with the 2010 calendar year, each coal mine operator shall annually hold an in-person meeting with law enforcement, public safety and health care providers for the purpose of reviewing and refining coal mine emergency response plans. The Office of Coal Mine Safety shall be notified of and arrange to participate in each such meeting, but the inability of the Office or any local, state, and federal emergency response personnel to attend such a meeting shall not prevent the operator from proceeding with the meeting as scheduled.

**KEY: coal mines, safety**

**Date of Enactment or Last Substantive Amendment: 2010**

**Authorizing, and Implemented or Interpreted Law: 40-2-104; 40-2-301(2)**

## **UTAH CODE: CHAPTER 34A - BOILERS AND PRESSURE VESSELS**

### **34A-7-101. Scope of chapter -- Exemptions.**

- (1) Except as provided in Subsection (2), this part applies to any boiler or pressure vessel used in:
  - (a) industrial or manufacturing establishments;
  - (b) business establishments;
  - (c) sawmills;
  - (d) construction jobs; and
  - (e) any place where workers or the public may be exposed to risks from the operation of boilers or pressure vessels.
- (2) This part does not apply to:
  - (a) a boiler or pressure vessel subject to inspection, control, or regulation under the terms of any law or regulation of the federal government or any of its agencies;
  - (b) an air tank located on a vehicle used for transporting passengers or freight; or
  - (c) a boiler or pressure vessel that is excluded from the Boiler and Pressure Vessel Code published by the American Society of Mechanical Engineers.

### **34A-7-102. Standards for construction and design -- Special approved designs -- Maintenance requirements.**

- (1) For the purposes of this part, the standards for the design and construction of a new boiler and new pressure vessel shall be the latest applicable provisions of the Boiler and Pressure Vessel Code published by the American Society of Mechanical Engineers.
- (2) This part shall not be construed as preventing the construction and use of a boiler or pressure vessel of special design:
  - (a) subject to approval of the Division of Boiler and Elevator Safety; and
  - (b) if the special design provides a level of safety equivalent to that contemplated by the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.
- (3) A boiler and pressure vessel, including an existing boiler and pressure vessel, shall be maintained in safe operating condition for the service involved.

### **34A-7-103. Inspection requirements -- Inspection certificate -- Standards of inspectors.**

- (1) On and after July 1, 1967, each boiler used or proposed to be used within this state, except boilers exempt under Section 34A-7-101, shall be thoroughly inspected:
  - (a) internally and externally;
  - (b) annually, except as otherwise provided by this part;
  - (c) while not under pressure;
  - (d) by:

- (i) the Division of Boiler and Elevator Safety; or
  - (ii) an inspector approved and deputized by the Division of Boiler and Elevator Safety; and
- (e) as to its safety of construction, installation, condition, and operation.
- (2) If at any time a hydrostatic test shall be considered necessary by the Division of Boiler and Elevator Safety to determine the safety of a boiler, the hydrostatic test shall be made at the direction of the Division of Boiler and Elevator Safety allowing a reasonable time for owner or user to comply
- (3)
  - (a) Not more than 14 months shall elapse between internal inspections of a boiler, except not more than 30 months between internal inspections of a large power boiler.
  - (b) For purposes of this Subsection (3) a "large power boiler" is a boiler operated and monitored continuously with adequate maintenance, combustion, and water controls.
  - (c) The Division of Boiler and Elevator Safety may extend the inspection interval in writing when proper evidence has been presented as to method of operation, performance records, and water treatment.
- (4)
  - (a) All low pressure boilers shall be internally and externally inspected at least biennially where construction will permit.
  - (b) For purposes of this Subsection (4), a "low pressure boiler" is a boiler with steam 15 pounds per square inch pressure and water 160 pounds per square inch pressure, maximum.
- (5)
  - (a) A boiler inspected by a deputized inspector employed by an insurance company, if made within the time limits provided in this section, shall be considered to meet the provisions of this part if:
    - (i) a report of the inspection is filed with the Division of Boiler and Elevator Safety within 30 days after the inspection; and
    - (ii) the boiler is certified by the inspector employed by an insurance company as being safe to operate for the purpose for which it is being used.
  - (b) The inspection and filing of the report with the Division of Boiler and Elevator Safety shall exempt the boiler or boilers from inspection fees provided for in this part.
- (6) If a boiler shall, upon inspection, be found to be suitable and to conform to the rules of the commission, the inspector shall issue to the owner or user an inspection certificate.
- (7)
  - (a) The Division of Boiler and Elevator Safety may at any time suspend an inspection certificate when in its opinion the boiler for which it was issued may not continue to be operated without menace to the public safety or when the boiler is found not to comply with the safety rules of the commission.
  - (b) The suspension of an inspection certificate shall continue in effect until the boiler shall have been made to conform to the safety rules of the commission and a new certificate is issued.
- (8) An inspector deputized or employed by the Division of Boiler and Elevator Safety under this part shall meet at all times nationally recognized standards of qualifications of fitness and competence for such work.

### **34A-7-104. Fees.**

The owner or user of a boiler required by this part to be inspected shall pay to the commission fees for inspection or for permits to operate in amounts set by the commission pursuant to Section **63J-1-303**.

### **34A-7-105. Violation of chapter -- Misdemeanor -- Injunction.**

- (1) It is a violation of this part and a class C misdemeanor to operate a boiler or pressure vessel subject to this part if:
  - (a) certification has been denied or suspended; or
  - (b) the boiler or pressure vessel is knowingly operated while constituting a safety hazard.
  
- (2)
  - (a) The Division of Boiler and Elevator Safety may bring a lawsuit in any court of this state to enjoin the operation of any boiler or pressure vessel in violation of this part
  - (b) The court may issue a temporary injunction, without bond, restraining further operation of the boiler or pressure vessel, ex parte.
  - (c) Upon a proper showing, the court shall permanently enjoin the operation of the boiler or pressure vessel until the violation is corrected.



## **R616. Labor Commission, Boiler and Elevator Safety.**

### **R616-2. Boiler and Pressure Vessel Rules.**

#### **R616-2-1. Authority.**

This rule is established pursuant to Title 34A, Chapter 7 for the purpose of establishing reasonable safety standards for boilers and pressure vessels to prevent exposure to risks by the public and employees.

#### **R616-2-2. Definitions.**

- A. "ASME" means the American Society of Mechanical Engineers.
- B. "Boiler inspector" means a person who is an employee of:
  - 1. The Division who is authorized to inspect boilers and pressure vessels by having met nationally recognized standards of competency and having received the Commission's certificate of competency; or
  - 2. An insurance company writing boiler and pressure vessel insurance in Utah who is deputized to inspect boilers and pressure vessels by having met nationally recognized standards of competency, receiving the Commission's certificate of competency, and having paid a certification fee.
- C. "Commission" means the Labor Commission created in Section 34A-1-103.
- D. "Division" means the Division of Boiler and Elevator Safety of the Labor Commission.
- E. "National Board" means the National Board of Boiler and Pressure Vessel Inspectors.
- F. "Nonstandard" means a boiler or pressure vessel that does not bear ASME and National Board stamping and registration.
- G. "Owner/user agency" means any business organization operating pressure vessels in this state that has a valid owner/user certificate from the Commission authorizing self-inspection of unfired pressure vessels by its owner/user agents, as regulated by the Commission, and for which a fee has been paid.
- H. "Owner/user agent" means an employee of an owner/user agency who is authorized to inspect unfired pressure vessels by having met nationally recognized standards of competency, receiving the Commission's certificate of competency, and having paid a certification fee.

#### **R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.**

The following safety codes and rules shall apply to all boilers and pressure vessels in Utah, except those exempted pursuant to Section 34A-7-101, and are incorporated herein by this reference in this rule.

- A. ASME Boiler and Pressure Vessel Code - 2017
  - 1. Section I Rules for Construction of Power Boilers
  - 2. Section IV Rules for Construction of Heating Boilers
  - 3. Section VIII Rules for Construction of Pressure Vessels
- B. Power Piping ASME B31.1 - 2016
- C. Controls and Safety Devices for Automatically Fired Boilers ASME CSD-1-2015 Except:
  - 1. Part CG-130(c)
- D. National Board Inspection Code ANSI/NB-23 - 2017 Part 3
- E. NFPA 85 Boiler and Combustion Systems Hazard Code 2015

- F. Recommended Administrative Boiler and Pressure Vessel Safety Rules and Regulations NB-132 Rev. 4.
- G. Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair and Alteration API 510 Tenth Edition - 2014. Except:
  - 1. Section-8, and
  - 2. Appendix-A.

#### **R616-2-4. Quality Assurance for Boilers, Pressure Vessels and Power Piping.**

- A. Consistent with the requirements of the Commission and its predecessor agency since May 1, 1978, all boilers and pressure vessels installed on or after May 1, 1978 shall be registered with the National Board and the data plate must include the National Board number.
- B. Pursuant to Section 34A-7-102(2), any boiler or pressure vessel of special design must be approved by the Division to ensure it provides a level of safety equivalent to that contemplated by the Boiler and Pressure Vessel Code of the ASME. Any such boiler or pressure vessel must thereafter be identified by a Utah identification number provided by the Division.
- C. All steam piping, installed after May 1, 1978, which is external (from the boiler to the first stop valve for a single boiler and the second stop valve in a battery of two or more boilers having manhole openings) shall comply with Section 1 of the ASME Boiler and Pressure Vessel Code or ASME B31.1 Power Piping as applicable.
- D. Nonstandard boilers or pressure vessels installed in Utah before July 1, 1999 may be allowed to continue in operation provided the owner can prove the equivalence of its design to the requirements of the ASME Boiler and Pressure Vessel Code. Nonstandard boilers or pressure vessels may not be relocated or moved.
- E. Effective July 1, 1999, all boiler and pressure vessel repairs or alterations must be performed by an organization holding a valid Certificate of Authorization to use the "R" stamp from the National Board. Repairs to pressure relief valves shall be performed by an organization holding a valid Certificate of Authorization to use the "VR" stamp from the National Board.

#### **R616-2-5. Code Applicability.**

- A. The safety codes which are applicable to a given boiler or pressure vessel installation are the latest versions of the codes in effect at the time the installation commenced.
- B. If a boiler or pressure vessel is replaced, this is considered a new installation.
- C. If a boiler or pressure vessel is relocated to another location or moved in its existing location, this is considered a new installation.

#### **R616-2-6. Variances to Code Requirements.**

- A. In a case where the Division finds that the enforcement of any code would not materially increase the safety of employees or general public, and would work undue hardships on the owner or user, the Division may allow the owner or user a variance pursuant to Section 34A-7-102. Variances must be in writing to be effective, and can be revoked after reasonable notice is given in writing.
- B. Persons who apply for a variance to a safety code requirement must present the Division with the rationale as to how their boiler or pressure vessel installation provides safety equivalent to the safety code.

- C. No errors or omissions in these codes shall be construed as permitting any unsafe or unsanitary condition to exist.

#### **R616-2-7. Boiler and Pressure Vessel Compliance Manual.**

- A. The Division shall develop and issue a safety code compliance manual for organizations and personnel involved in the design, installation, operation and maintenance of boilers and pressure vessels in Utah.
- B. This compliance manual shall be reviewed annually for accuracy and shall be re-issued on a frequency not to exceed two years.
- C. If a conflict exists between the Boiler and Pressure Vessel compliance manual and a safety code adopted in R616-2-3, the code requirements will take precedence.

#### **R616-2-8. Inspection of Boilers and Pressure Vessels.**

- A. It shall be the responsibility of the Division to make inspections of all boilers or pressure vessels operated within its jurisdiction, when deemed necessary or appropriate.
- B. Boiler inspectors shall examine conditions in regards to the safety of the employees, public, machinery, ventilation, drainage, and into all other matters connected with the safety of persons using each boiler or pressure vessel, and when necessary give directions providing for the safety of persons in or about the same. For boilers or pressure vessels inspected by an inspector employed by the Division, the owner or user is required to freely permit entry, inspection, examination and inquiry, and to furnish a guide when necessary. For boilers or pressure vessels inspected by a deputy inspector employed by an insurance company, the deputy inspector's right of entry on the premises where the boiler or pressure vessel is located is subject to the agreement between the insurance company and the owner or operator of the boiler or pressure vessel. In the event an internal inspection of a boiler or pressure vessel is required the owner or user shall, at a minimum, prepare the boiler or pressure vessel by meeting the requirements of 29 CFR Part 1910.146 "Permit Required Confined Spaces" and 29 CFR Part 1910.147 "Control of Hazardous Energy (Lockout/Tagout)".
- C. If the Division finds a boiler or pressure vessel complies with the safety codes and rules, the owner or user shall be issued a Certificate of Inspection and Permit to Operate.
- D. If the Division finds a boiler or pressure vessel is not being operated in accordance with safety codes and rules, the owner or user shall be notified in writing of all deficiencies and shall be directed to make specific improvements or changes as are necessary to bring the boiler or pressure vessel into compliance.
- E. Pursuant to Sections 34A-1-104, 34A-2-301 and 34A-7-102, if the improvements or changes to the boiler or pressure vessel are not made within a reasonable time, the boiler or pressure vessel is being operated unlawfully.
- F. If the owner or user refuses to allow an inspection to be made, the boiler or pressure vessels is being operated unlawfully.
- G. If the owner or user refuses to pay the required fee, the boiler or pressure vessel is being operated unlawfully.
- H. If the owner or user operates a boiler or pressure vessel unlawfully, the Commission may order the boiler or pressure vessel operation to cease pursuant to Sections 34A-1-104 and 34A-7-103.
- I. If, in the judgment of a boiler inspector, the lives or safety of employees or public are or may be endangered should they remain in the danger area, the boiler inspector shall direct that they be immediately withdrawn from the danger area, and the boiler or pressure vessel be removed from service until repairs have been made and the boiler or pressure vessel has been

brought into compliance.

- J. An owner/user agency may conduct self inspection of its own unfired pressure vessels with its own employees who are owner/user agents under procedures and frequencies established by the Division.

**R616-2-9. Fees.**

Fees to be charged as required by Section 34A-7-104 shall be adopted by the Labor Commission and approved by the Legislature pursuant to Section 63J-1-303.

**R616-2-10. Notification of Installation, Revision, or Repair.**

- A. Before any boiler covered by this rule is installed or before major revision or repair, particularly welding, begins on a boiler or pressure vessel, the Division must be advised at least one week in advance of such installation, revision, or repair unless emergency dictates otherwise.
- B. It is recommended that a business organization review its plans for purchase and installation, or of revision or repair, of a boiler or pressure vessel well in advance with the Division to ensure meeting code requirements upon finalization.

**R616-2-11. Initial Agency Action.**

Issuance or denial of a Certificate of Inspection and Permit to Operate by the Division, and orders or directives to make changes or improvements by the boiler inspector are informal adjudicative actions commenced by the agency per Section 63G-4-201.

**R616-2-12. Presiding Officer.**

The boiler inspector is the presiding officer referred to in Section 63G-4-201. If an informal hearing is requested pursuant to R616-2-13, the Commission shall appoint the presiding officer for that hearing.

**R616-2-13. Request for Informal Hearing.**

Within 30 days of issuance, any aggrieved person may request an informal hearing regarding the reasonableness of a permit issuance or denial or an order to make changes or improvements. The request for hearing shall contain all information required by Sections 63G-4-201(a) and 63G-4-201(3).

**R616-2-14. Classification of Proceeding for Purpose of Utah Administrative Procedures Act.**

Any hearing held pursuant to R616-2-13 shall be informal and pursuant to the procedural requirements of Section 63G-4-203 and any agency review of the order issued after the hearing shall be per Section 63G-4-302. An informal hearing may be converted to a formal hearing pursuant to Section 63G-4-202(3).

## **R616-2-15. Deputy Boiler/Pressure Vessel Inspectors.**

A. Purpose -- Section 34A-7-10 of the Safety Act ("the Act"; Title 34A, Chapter 7, Part One, Utah Code Annotated) permits the Division of Boiler, Elevator and Coal Mine Safety ("the Division") to authorize qualified individuals to inspect boilers and pressure vessels as "deputy inspectors." This rule sets forth the Division's procedures and standards for authorizing deputy inspectors, monitoring their performance, and suspending or revoking such authority when appropriate.

B. Initial appointment of deputy inspectors.

1. An applicant for initial Division authorization to inspect boilers and pressure vessels as a deputy inspector must satisfy the following requirements in the order listed below:
  - a. A company insuring boilers and pressure vessels in Utah ("sponsoring employer" hereafter) must submit a letter to the Division certifying that:
    - i. the applicant is employed by the sponsoring employer; and
    - ii. the sponsoring employer requests the Division authorize the applicant to inspect boilers and pressure vessels insured by that employer;
  - b. The applicant or sponsoring employer must submit to the Division a current, valid certification from the National Board of Boiler and Pressure Vessel Certification ("National Board") that the applicant is qualified to inspect boilers and pressure vessels;
  - c. The applicant or sponsoring employer must submit an application fee of \$25 to the Division;
  - d. The applicant must complete training for deputy inspectors provided by the Division;
  - e. The applicant must pass an oral examination administered by the Division pertaining to boiler and pressure vessel inspection standards and processes; and
  - f. The applicant must pass a written, closed-book examination administered by the Division on the Division's boiler/Pressure Vessel Compliance Manual, Rules, and codes adopted;
2. Upon successful completion of the foregoing requirements, the Division will appoint the applicant as a deputy inspector and will issue credentials to that effect. The Division will also notify the sponsoring employer of the appointment.
3. Initial appointment as a deputy inspector terminates at the end of the calendar year in which such appointment is made unless a deputy inspector qualifies for reappointment under paragraph C of this rule.

C. Annual reappointment of deputy inspectors.

1. Effective January 1 of each year, the Division will renew the appointment of each deputy inspector for an additional year if the inspector satisfies the following requirements:
  - a. The individual was authorized to serve as a deputy inspector as of December 31 of the previous year;
  - b. A sponsoring employer has submitted a letter to the Division certifying that:
    - i. the individual is employed by the sponsoring employer; and
    - ii. The sponsoring employer requests the Division to reappoint that individual as a deputy inspector to inspect boilers and pressure vessels for that employer;
  - c. The individual or sponsoring employer has submitted to the Division a current,

- valid certification from the National Board establishing that the individual is qualified as a boiler and pressure vessel inspector;
      - d. The individual or sponsoring employer has submitted to the Division the required renewal fee of \$20;
      - e. The individual has completed the Division's required training for deputy inspectors.
    - 2. An individual who does not meet each of the foregoing requirements is not eligible for reappointment as a deputy inspector and must instead meet each of the requirements for initial appointment under paragraph B of this rule.
  - D. Lapse, change of employment and loss of National Board certification.
    - 1. Lapse. An individual's appointment as a deputy inspector will lapse if the individual:
      - a. Does not renew the appointment by satisfying the requirements of paragraph C of this rule;
      - b. Does not perform and submit to the Division at least one boiler or pressure vessel inspection during the previous calendar year; or
      - c. Fails to inform the Division of any change in status of employment with his or her sponsoring employer as required in the following paragraph D.2. of this rule.
    - 2. Change in employment.
      - a. A deputy inspector must immediately notify the Division in writing of any change in the status of the inspector's employment with his or her sponsoring employer.
      - b. If the Division determines that an individual previously appointed as a deputy inspector is no longer employed by a company authorized to insure boilers and pressure vessels in Utah, the Division will immediately revoke that individual's appointment.
      - c. If the Division determines that a deputy inspector has changed employment to another company that insures boilers and pressure vessels in Utah, the Division will require the new employer or deputy inspector to submit the following:
        - i. A letter from the new employer:
          - aa. certifying that the individual is employed by that sponsoring employer; and
          - bb. requesting that the individual's appointment as a deputy inspector be continued;
        - ii. A current, valid certification as a boiler/pressure vessel inspector from the National Board; and
        - iii. Payment to the Division of the required fee of \$20.
    - 3. National Board Certification.
      - a. Every deputy inspector shall at all times hold a current valid certification as a boiler/pressure vessel inspector from the National Board.
      - b. Each deputy inspector shall immediately notify the Division if his or her National Board certification has been revoked or suspended.
      - c. If the Division has reason to believe that a deputy inspector's National Board certification has been revoked or suspended, the Division will obtain written verification from the National Board. If the National Board has in fact revoked or suspended the deputy inspector's certification, the Division will revoke the inspector's appointment as a deputy inspector.

E. Scope of authority. Appointment as a deputy inspector has the limited effect of authorizing the deputy inspector to inspect boilers and pressure vessels insured by his or her sponsoring employer for compliance with engineering codes and other standards adopted by the Division in Utah Administrative Code Rule R616-2. The Division expressly does not confer any other authority to deputy inspectors. Deputy inspectors remain employees of their respective sponsoring employers and are not employees of the Division or agents of the Division for any other purpose. A deputy inspector's right to inspect any particular boiler or pressure vessel, including the deputy inspector's right of entry on the premises where the boiler or pressure vessel is located, is subject to the agreement between the sponsoring employers and the owner or operator of the boiler or pressure vessel. Appointment as a deputy inspector by the Division does not confer any right of entry independent from the terms of such agreement.

F. Inspection Standards

1. In inspecting any boiler or pressure vessel, a deputy inspector shall apply the standards and engineering codes adopted in Utah Administrative Code R616-2 - Boiler and Pressure Vessel Rules.
2. Each deputy inspector must use the Division's web-based applications to accurately record and submit all information regarding boilers and pressure vessels, including;
  - a. inspection reports;
  - b. scrapped and inactive items;
  - c. information changes other than those requiring submission of a Change of Insurance Status Form (NB4); and
  - d. a Web Issue Form (Form WIF-01) to identify any error or other issue resulting from the deputy inspector's use of the Division's web-based applications.

G. Quality Control. The Division will evaluate the performance of each deputy inspector to assure compliance with the Division's standards for boiler and pressure vessel inspections.

1. The Division's Business Analyst will review each inspection report submitted by a deputy inspector and will report any serious errors to the Chief Boiler and Pressure Vessel Inspector ("Chief Inspector") for appropriate action.
2. Each year, the Chief Inspector will evaluate a sample of each deputy inspector's inspections performed during that year for compliance with Division standards.
3. In addition to the reviews undertaken pursuant to paragraph G.2. of this rule, the Chief Inspector will also investigate any observation or report of an inspection deficiency to determine whether the deputy inspector complied with Division standards and rules in performing and reporting the inspection.

H. Corrective Action, Revocation and Right to Hearing.

1. If the Chief Inspector concludes that a deputy inspector does not satisfy requirements of this rule for continued appointment as a deputy inspector or has performed an inspection in a manner that is inconsistent with Division standards, the Chief Inspector will submit a written report and may recommend corrective action to the Division Director.
2. Depending on the circumstances and the seriousness of the situation, corrective action may include;
  - a. warning letter;
  - b. requirements for additional training;
  - c. requirements for retesting;
  - d. request review by the National Board;
  - e. additional supervision; and
  - f. revocation of appointment as a deputy inspector.

3. The Division Director shall forward a copy of the Chief Inspector's written report and any recommendation for corrective action to the deputy inspector and the sponsoring employer. If the deputy inspector or sponsoring employer dispute the report or recommended corrective action, the Division Director shall schedule time and place to conduct a hearing on the matter, such hearing to be conducted as an informal adjudicative proceeding under the Utah Administrative Procedures Act. After conducting such hearing, the Division Director will issue a written decision setting forth the material facts and ordering appropriate corrective action, if any. The Division Director shall forward a copy of the decision to the deputy inspector, sponsoring employer, and the National Board.
4. If the deputy inspector or sponsoring employer is dissatisfied with the Division Director's decision, the inspector or sponsoring employer may seek judicial review as provided by the Utah Administrative Procedures Act.

**KEY: boilers, certification, safety**

**Date of Enactment or Last Substantive Amendment: 2016**

**Notice of Continuation: October 5, 2011**

**Authorizing, and Implemented or Interpreted Law: 34A-7-101 et seq.**



# UTAH CODE: CHAPTER 34A - ELEVATOR AND ESCALATOR SAFETY ACT

## 34A-7-201 Title.

This part is known as the "Elevator and Escalator Safety Act."

## 34A-7-202. Definitions.

As used in this part:

- (1) "Division" means the Division of Boiler and Elevator Safety within the commission.
- (2)
  - (a) "Elevator" means a hoisting and lowering mechanism:
    - (i) equipped with a car or platform; and
    - (ii) that moves in guides in a substantially vertical direction.
  - (b) "Elevator" does not mean:
    - (i) a device used for the sole purpose of elevating or lowering materials such as:
      - (A) a dumbwaiter;
      - (B) a conveyor; or
      - (C) a chain, bucket, or construction hoist;
    - (ii) a tiering, piling, feeding, or similar machine giving service within only one story;
    - (iii) a portable platform;
    - (iv) a stage lift;
    - (v) a device installed in a single family dwelling;
    - (vi) a device installed in a facility owned and operated by the federal government; or
    - (vii) an amusement ride, as defined in Section 78-27-61.
- (3)
  - (a) "Escalator" means a stairway, moving walkway, or runway that is:
    - (i) power-driven;
    - (ii) continuous; and
    - (iii) used to transport one or more individuals.
  - (b) "Escalator" does not mean:
    - (i) a device used for the sole purpose of elevating or lowering materials such as:
      - (A) a dumbwaiter;
      - (B) a conveyor; or
      - (C) a chain, bucket, or construction hoist;
    - (ii) a device installed in a single-family dwelling;
    - (iii) a device installed in a facility owned and operated by the federal government; or
    - (iv) an amusement ride, as defined in Section 78-27-61.
- (4) "Owner or operator" means a person who owns, controls, or has the duty to control the operation of an elevator or escalator.
- (5) "Safety code" means the one or more codes adopted by the division in accordance with Subsection 34A-7-203(6) to be used in inspecting elevators and escalators.

**34A-7-203. Requirements for operating an elevator or escalators -- Inspection -- Division duties.**

- (1) An elevator or escalator may not operate in this state unless:
  - (a) the owner or operator of the elevator or escalator obtains an inspection certificate under Subsection (3); and
  - (b) the inspection certificate described in Subsection (1)(a) has not:
    - (i) expired under Subsection (3); or
    - (ii) been suspended under Section 34A-7-204.
- (2) An elevator or escalator used or proposed to be used in this state shall be inspected as to its safety to operate in accordance with the safety code:
  - (a) every two years; or
  - (b) more frequently than every two years if the division determines that more frequent inspections are necessary.
- (3)
  - (a) If upon inspection an elevator or escalator is safe to operate in accordance with the safety code, the inspector shall issue to the owner or operator an inspection certificate.
  - (b) An inspection certificate issued under Subsection (3)(a) shall expire two years from the date the inspection certificate is issued.
- (4) An inspector employed by the division under this part shall at all times meet nationally recognized standards of qualifications for inspectors of elevators and escalators, as defined by rule by the division.
- (5) The owner or operator of an elevator or escalator that is used in the state shall pay to the commission a fee in amounts set by the commission pursuant to Section 63J-1-303:
  - (a) for inspection; and
  - (b) for an inspection certificate.
- (6) The division:
  - (a) shall provide for the inspection of elevators and escalators in accordance with this section;
  - (b) shall adopt by rule one or more nationally recognized standards or other safety codes to be used in inspecting elevators or escalators; and
  - (c) may adopt amendments to the safety code adopted under Subsection (6)(b).

**34A-7-204. Suspension of inspection certificates -- Violation of part -- Misdemeanor -- Injunction.**

- (1)
  - (a) The division may suspend an inspection certificate issued under Section 34A-7-203 if it finds that the elevator or escalator for which the inspection certificate is issued does not meet the requirements of the safety code.
  - (b) The suspension of an inspection certificate shall continue in effect until:

- (i) the elevator or escalator conforms to the safety code; and
  - (ii) a new inspection certificate is issued.
- (2) It is a violation of this part and a class C misdemeanor to operate an elevator or escalator in this state if:
  - (a) an inspection certificate for the elevator or escalator has not been issued;
  - (b)
    - (i) an inspection certificate for the elevator or escalator is suspended; and
    - (ii) the requirements of Subsection (1)(b) are not met; or
  - (c) the elevator or escalator is knowingly operated while constituting a safety hazard.
- (3) The division may bring a lawsuit in any court of this state to enjoin the operation of any elevator or escalator in violation of this part.

## **R616. Labor Commission, Boiler and Elevator Safety.**

### **R616-3. Elevator Rules.**

#### **R616-3-1. Authority.**

This rule is established pursuant to Section 34A-7-201 for the purpose of the Labor Commission ascertaining, fixing, and enforcing reasonable standards regarding elevators for the protection of life, health, and safety of the general public and employees.

#### **R616-3-2. Definitions.**

- A. "ANSI" means the American National Standards Institute, Inc.
- B. "ASME" means the American Society of Mechanical Engineers.
- C. "Commission" means the Labor Commission created in Section 34A-1-103.
- D. "Division" means the Division of Boiler and Elevator Safety of the Labor Commission.
- E. "Elevator" means a hoisting and lowering mechanism equipped with a car or platform and that moves in guides in a substantially vertical direction.
- F. "Escalator" means a stairway, moving walkway, or runway that is power driven, continuous and used to transport one or more individuals.

#### **R616-3-3. Safety Codes for Elevators.**

The following safety codes are adopted and incorporated by reference within this rule:

- A. ASME A17.1-2016/CSA B44-10, Safety Code for Elevators and Escalators, and amended as follows:
  - 1. Delete 2.2.2.5;
  - 2. Amend 8.6.5.8 as follows: Existing hydraulic cylinders installed below ground when found to be leaking shall be replaced with cylinders conforming to 3.18.3.4 or the car shall be provided with safeties conforming to 3.17.1 and guide rails, guide rail supports and fastenings conforming to 3.23.1. This code is issued every two years. New issues become mandatory only when a formal change is made to these rules. Elevators are required to comply with the A17.1 code in effect at the time of installation.
- B. ASME A17.3 - 2015 Safety Code for Existing Elevators and Escalators. This code is adopted for regulatory guidance only for elevators classified as remodeled elevators by the Division of Boiler and Elevator Safety.
- C. ASME A90.1- 2015, Safety Standard for Belt Manlifts.
- D. ANSI A10.4- 2016, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.
- E. ICC/ANSI A117.1-2009 Accessible and Usable Buildings and Facilities, sections 407, 408 and 410, approved October 20, 2010.
- F. ASME A18.1- 2014 Safety Standard for Platform Lifts And Stairway Chairlifts
- G. ASME A17.6-2010 Standard for Elevator Suspension, Compensation, and Governor Systems.

#### **R616-3-4. Inspector Qualification.**

- A. Any person who performs elevator safety inspections must have a current certification as a Qualified Elevator Inspector from a nationally accredited organization.

#### **R616-3-5. Modifications and Variances to Codes.**

- A. In a case where the Division finds that the enforcement of any code would not materially increase the safety of employees or general public, and would work undue hardships on the owner/user, the Division may allow the owner/user a variance. Variances must be in writing to be effective and can be revoked after reasonable notice is given in writing.
- B. Persons who apply for a variance to a safety code requirement must present the Division with the rationale as to how their elevator installation provides safety equivalent to the applicable safety code.
- C. No errors or omissions in these codes shall be construed as permitting any unsafe or unsanitary condition to exist.
- D. The Commission may, by rule, add or delete from the applicable safety codes for any good and sufficient safety reason.
- E. In the event that adopted safety codes are in conflict with one another, the ASME A17.1, Safety Code for Elevators and Escalators will take precedence. The exception to this is for compliance with the accessibility guidelines of Pub. L. No. 101-336 "The Americans with Disability Act of 1990". In this instance, the International Building Code standards adopted in R616-3-3 for accessibility as applied to elevators take precedence over ASME A17.1.

#### **R616-3-6. Exemptions.**

- A. These rules apply to all elevators in Utah with the following exemptions:
  - 1. Private residence elevators installed inside a single family dwelling. Common elevators which serve multiple private residences are not exempt from these rules.
  - 2. Elevators in buildings owned by the Federal government.
- B. Owners of elevators exempted in R616-3-6.A. may request a safety inspection by Division of Boiler and Elevator Safety inspectors. Code non-compliance items will be treated as recommendations by the inspector with the owner having the option as to which, if any, are corrected. Owners requesting these inspections will be invoiced at the special inspection rate. If the owner requests a State of Utah Certificate to Operate for the elevator, all of the recommendations must be completed to the satisfaction of the inspector and the owner will be invoiced the appropriate certificate fee.

#### **R616-3-7. Inspection of Elevators, Permit to Operate, Unlawful Operations.**

- A. It shall be the responsibility of the Division to make inspections of all elevators when deemed necessary or appropriate.
- B. Elevator inspectors shall examine conditions in regards to the safety of the employees, public, machinery, drainage, methods of lighting, and into all other matters connected with the safety of persons using or in close proximity to each elevator, and when necessary give directions providing for the better health and safety of persons in or about the same. The owner/user is required to freely permit entry, inspection, examination and inquiry, and to furnish a guide when necessary.

- C. If the Division finds that an elevator complies with the applicable safety codes and rules, the owner/user shall be issued a Certificate of Inspection and Permit to Operate.
  - 1. The Certificate of Inspection and Permit to Operate is valid for 24 months.
  - 2. The Certificate of Inspection and Permit to Operate shall be displayed in a conspicuous location for the entire validation period. If the certificate is displayed where accessible to the general public, as opposed to being in the elevator machine room, it must be protected under a transparent cover.
- D. If the Division finds an elevator is not being operated in accordance with the safety codes and rules, the owner/user shall be notified in writing of all deficiencies and shall be directed to make specific improvements or changes as are necessary to bring the elevator into compliance.
- E. Pursuant to Section 34A-7-204, if the improvements or changes are not made within a reasonable time, by agreement of the division and the owner, the elevator is being operated unlawfully.
- F. If the owner/user refuses to allow an inspection to be made, the elevator is being operated unlawfully.
- G. If the owner/user refuses to pay the required fee, the elevator is being operated unlawfully.
- H. If the owner/user operates an elevator unlawfully, the Commission may order the elevator operation to cease pursuant to Section 34A-1-104.
- I. If, in the judgment of an elevator inspector, the lives or safety of employees or public are, or may be, endangered should they remain in the danger area, the elevator inspector shall direct that they be immediately withdrawn from the danger area, and the elevator removed from service until repairs have been made and the elevator has been brought into compliance.

#### **R616-3-8. Inclined Wheelchair Lift Headroom Clearance.**

- A. Headroom clearance for inclined wheelchair lifts throughout the range of travel shall be not less than 80 inches (2032 mm) as measured vertically from the leading edge of the platform floor.
- B. For existing facilities only, in the event that it is not technically or economically feasible to provide other means of access for disabled persons, inclined wheelchair lifts may be installed if all of the following conditions are met:
  - 1. The appropriate building inspection jurisdiction approves the use of an inclined wheelchair lift for the specific application.
  - 2. Headroom clearance throughout the range of travel shall be not less than 60 inches as measured vertically from the leading edge of the platform floor.
  - 3. The passenger restriction sign as required by ASME A18.13.1.2.3 shall be amended as follows: "PHYSICALLY DISABLED PERSONS ONLY. NO FREIGHT. HEADROOM CLEARANCE IS LIMITED. USE ONLY IN THE SITTING POSITION".

#### **R616-3-9. Valves in Hydraulic Elevator Operating Fluid Systems.**

- A. Due to the potential loss of pressure retaining capability when over torqued, bronze-bodied valves shall not be installed in the hydraulic systems of a hydraulic elevator.
- B. This requirement is in effect for all new installations and remodel installations involving the hydraulic system.
- C. If a bronze-bodied valve installed on an existing elevator begins to leak, that valve shall be

replaced by a steel-bodied valve.

### **R616-3-10. Hydraulic Elevator Piping.**

- A. This rule establishes minimum standards for hydraulic fluid piping in hydraulic elevators. The piping specifications referred to in this rule are governed by ASME or ASTM piping specifications (e.g. ASME Specification SA-53 Table X2.4).
- B. Hydraulic elevators not incorporating a safety valve may use schedule 40 piping.
- C. For newly installed hydraulic elevators that do incorporate a safety valve:
  - 1. Where piping is protected by the safety valve, schedule 40 piping may be used;
  - 2. Where grooved or threaded connections are used in piping that is unprotected by the safety valve, i.e. between the safety valve and the hydraulic jack(s), nominal pipe size (NPS)3 or schedule 80 piping may be used;
  - 3. Where piping is unprotected by the safety valve, but welded or bolted flange connections are used, schedule 40 piping may be used.

### **R616-3-11. Shunt Trips in Elevator Systems.**

- A. The means (shunt trip) to automatically disconnect the main line power supply to the elevator discussed in 2.8.3.3.2 of A17.1 is not required for hydraulic elevators with a rise of 50 feet or less.

### **R616-3-12. Hoistway Vents.**

Hoistway ventilation as outlined in the International Building Code is under the jurisdiction of the local building official.

### **R616-3-13. Hand Line Control Elevators.**

- A. Operation of a hand line control elevator is not permitted.
- B. Owners of hand line control elevators are required to render the elevator electrically and mechanically incapable of operation.

### **R616-3-14. Remodeled Elevators.**

When an elevator is classified as a remodeled (modernized) elevator by the Division, the components of the elevator involved in the modernization must comply with the standards of the latest version of A17.1 and A17.3 in effect at the time the remodeling of the elevator commences.

### **R616-3-15. Fees.**

- A. Fees to be charged as provided by Section 34A-1-106 and 63J-1-303 shall be adopted by the Labor Commission and approved by the Legislature pursuant to Section 63J-1-303.
- B. The fee for the initial certification permit shall be invoiced to and paid by the company or firm installing the elevator.
- C. The renewal certification permit shall be invoiced to and paid by the owner/user.

D. Any request for a special inspection shall be invoiced to and paid by the person/company requesting the inspection, at the hourly rate plus mileage and expenses.

**R616-3-16. Notification of Installation, Revision or Remodeling.**

A. Before any elevator covered by this rule is installed or a major revision or remodeling begins on the elevator, the Division must be advised at least one week in advance of such installation, revision, or remodeling unless emergency dictates otherwise.

**R616-3-17. Initial Agency Action.**

Issuance or denial of a Certificate of Inspection and Permit to Operate by the Division, and orders or directives to make changes or improvements by the elevator inspector are informal adjudicative actions commenced by the agency per Section 63G-4-201.

**R616-3-18. Presiding Officer.**

The elevator inspector is the presiding officer referred to in Section 63G-4-201. If an informal hearing is requested pursuant to R616-3-18, the Commission shall appoint the presiding officer for that hearing.

**R616-3-19. Request for Informal Hearing.**

Within 30 days of issuance, any aggrieved person may request an informal hearing regarding the reasonableness of a permit issuance or denial or an order to make changes or improvements. The request for hearing shall contain all information required by Sections 63G-4-201(a) and 63G-4-201(b).

**R616-3-20. Classification of Proceeding for Purpose of Utah Administrative Procedures Act.**

Any hearing held pursuant to R616-3-18 shall be informal and pursuant to the procedural requirements of Section 63G-4-203 and any agency review of the order issued after the hearing shall be per Section 63G-4-302. An informal hearing may be converted to a formal hearing pursuant to Subsection 63G-4-202(3).

**KEY: elevators, certification, safety**

**Date of Enactment or Last Substantive Amendment: June 1, 2016**

**Notice of Continuation: October 5, 2011**

**Authorizing, and Implemented or Interpreted Law: 34A-1-101 et seq.**