

**Salt Lake Valley Health Department**

**Health Regulation**

**#31**

**STANDARDS & PROCEDURES  
FOR ADOPTION OF  
HEALTH REGULATIONS**

**Adopted by the Salt Lake Valley Board of Health  
June 5, 1997**

**Amended: January 5, 2006**

**Under Authority of Section 26A-1-114  
Utah Code Annotated, 1953, as amended**

## **1. PURPOSE & APPLICABILITY OF REGULATION**

- 1.1. The purpose of this regulation is to establish the standards and procedures for adopting health regulations of the Salt Lake Valley Health Department ("Department") as authorized under the Utah Local Health Department Act contained in Title 26A, Utah Code Ann., 1953, as amended, specifically including Section 26A-1-121, and under Section 9.04.050, Salt Lake County Code of Ordinances, 1986 (adopted by cities in Salt Lake County).
- 1.2. The standards and procedures in this regulation constitute an internal working standard to be used by the Salt Lake Valley Health Department Board of Health ("Board of Health"), administration and staff in drafting, adopting and publishing health regulations. Other statutes or ordinances may impose additional procedural and notice requirements.

## **2. DEFINITIONS**

The following terms shall have the meanings given in this section and shall apply to regulations subsequently adopted by the Board of Health unless otherwise specifically provided for:

- 2.1. "Board of Health" shall mean the Salt Lake Valley Health Department Board of Health, created pursuant to Section 9.04.010, Salt Lake County Code of Ordinances, 1986.
- 2.2. "Department" shall mean the Salt Lake Valley Health Department, created pursuant to the Local Health Department Act, Title 26A, Utah Code Ann., 1953 as amended.
- 2.3. "Director" shall mean the Director of the Salt Lake Valley Health Department or his or her designated representative.
- 2.4. "Effective" shall mean the operative and enforceable date of the regulation, amendment or repeal after adoption by the Board of Health.
- 2.5. "Regulation" shall mean health regulations adopted by the Board pursuant to Section 9.04.050, Salt Lake County Code of Ordinances, 1986.
- 2.6. "Staff" shall mean the professional staff of the Board of Health and Department Administration.

## **3. JURISDICTION OF THE DEPARTMENT**

- 3.1. This regulation is promulgated by the Salt Lake Valley Board of Health as authorized by Section 26A-1-121(1), Utah Code Ann., 1953 as amended and Chapter 9.04, Salt Lake County Code of Ordinances.

## **4. REGULATION DRAFTING AND CHANGING**

4.1. All new regulations and amendments to existing regulations shall be drafted by the Department staff and shall be given internal administrative review prior to consideration by the Board of Health. The regulation, amendment or repeal shall be reviewed and approved as to form by the District Attorney's Office before submission to the Board of Health for adoption.

**4.2. Nonsubstantive Changes in Regulations.**

4.2.1. Grammatical or other minor changes to a regulation that do not materially affect the application or outcome of department procedures and standards may be made by the Department staff without notice, public comment and adoption by the Board of Health.

4.2.2. The Department staff shall determine if the changes are substantive or nonsubstantive according to criteria cited in part 4.2.1 above. The Department staff may seek the advice of the District Attorney in determining whether a change is substantive or nonsubstantive.

4.2.3. To make a nonsubstantive change in a regulation, the Department staff shall:

- (i) propose the nonsubstantive changes to the Director; and
- (ii) subject to the Director's approval, notify the Board of Health of the changes made showing the regulation text changes marked as required by subsection 4.5 below.

4.2.4. A nonsubstantive change shall not require published notice or a public hearing and shall become effective on the date the Director approves the changes in the regulation.

**4.3. Substantive Changes in Regulations.**

4.3.1. Substantive changes in existing regulations shall be made through the formal adoption, notice, and public hearing procedures outlined in this regulation.

4.3.2. To make a substantive change in a regulation that has been reviewed by the Board of Health and approved to go to public hearing after notice of the hearing has been published, the Department staff member or other individual must propose the change at the time of the public hearing or submit the proposed change in writing to the Board of Health during the public comment period prior to the hearing.

**4.4. Temporary Regulations**

- 4.4.1. The Department may adopt temporary regulations that are not adopted following the procedures for substantive and nonsubstantive changes, but in so doing the Department shall comply with the procedures of this subsection 4.4.
- 4.4.2. The need for a temporary regulation may be demonstrated in the following circumstances:
  - (i) there is an imminent peril or threat to the public health, safety, welfare or the environment requiring regulatory intervention;
  - (ii) there is a special event or circumstance requiring specific short-term regulatory intervention; or
  - (iii) there is an emergency or disaster requiring specific short-term regulatory intervention.
- 4.4.3. When finding the need for a temporary regulation, the Director shall file with the Chairperson of the Board of Health:
  - (i) a copy of the proposed temporary regulation, and
  - (ii) specific reasons and justification for the regulation.
- 4.4.4. The regulation shall become effective and enforceable on the day and hour it is filed with the Board of Health, unless the Director designates a later effective date in the justification for the regulation. No comment period or public hearing shall be required and the regulation shall expire 120 days after the regulation's effective date unless the Director specifies an earlier expiration date.
- 4.4.5. The Board of Health may review the temporary regulation at any time after the effective date and ratify, modify or repeal the temporary regulation.
- 4.4.6. To make a temporary regulation permanent, the Department shall follow the procedure for new regulations described in Subsection 4.1.
- 4.4.7. When a temporary regulation and a similar regular regulation are in effect at the same time, any conflict between the two are resolved in favor of the regulation with the most recent effective date, unless the Department designates otherwise as part of the justification.
- 4.4.8. A temporary regulation has the full force and effect of a permanent regulation while in effect.
- 4.4.9. The Department shall publish notification of adoption of the temporary regulation in a newspaper of general circulation in Salt Lake County within 72 hours after the regulation is filed with the Board of Health. The Department shall also give

notice to persons who have made timely request of the Department for advance notice of its regulation making proceedings and to any other person who, in the judgment of the Department, should also receive notice.

#### **4.5. Underscoring and Striking Out.**

- 4.5.1. The Department staff shall underscore (or highlight) language to be added and strike out language to be deleted in a proposed regulation. The struck out language shall be surrounded by brackets.
- 4.5.2. When a new regulation, section of a regulation, or other amendment is proposed, the proposed text shall be underscored (or highlighted).
- 4.5.3. When a regulation is proposed for repeal, each page shall be annotated “repealed in its entirety” or the entire text shall be struck out and surrounded by one set of brackets.

**4.6. Board of Health Approval Before Public Comment.** The Board of Health shall approve all proposed regulations (except temporary regulations), proposed substantive amendments, and repeals of an existing regulation prior to public comment. The Board of Health shall appoint a hearing officer who may be a member of the Board of Health, administrative staff, or other designee.

#### **4.7. Public Hearing and Public Comment Period.**

- 4.7.1. The Board of Health shall hold a public hearing after a thirty (30) day public comment period on any proposed regulation (except temporary regulations), amendment to a regulation, or repeal of a regulation. The hearing shall be held before the regulation becomes effective and after the end of the thirty (30) day public comment period.
- 4.7.2. A notice of intent to adopt or amend a regulation and invitation for public comments shall be prepared and shall contain the following:
  - (i) a general description of the proposed regulation, amendment, or repeal to the regulation and a summary of the content of the regulation or amendment;
  - (ii) the location where a copy of the proposed regulation or amendment can be obtained or reviewed;
  - (iii) the location, date, and time of the public hearing; and
  - (iv) the period of time comments will be received and to whom the written comments should be directed.

- 4.7.3. The notice of intent, invitation for public comments, and public hearing shall be published in at least one newspaper of general circulation in Salt Lake County. The notice shall be published twice, the first notice published at least thirty (30) days prior to the expiration of the comment period and the last notice published approximately fifteen (15) days prior to the date of the public hearing.
- 4.7.4. For the purposes of Section 5.0, thirty days shall be computed by:
- (i) counting the day after publication of notice of intent to adopt the regulation as the first day; and
  - (ii) counting the thirtieth consecutive day after the day of publication as the thirtieth day, unless the thirtieth consecutive day is a Saturday, Sunday, or legal holiday, in which event the comment period runs until 5:00 p.m. the next regular business day.
- 4.7.5. Copies of the proposed regulation or amendment shall be made available during the comment period for public inspection at the Division of Environmental Health and Department administration. Copies of the regulation may be available for review at other locations in Salt Lake County if public interest warrants it as determined by the Department.
- 4.7.6. The public hearing shall be held at the time and place announced in the notice. The following will be a part of the hearing:
- (i) A roster will be made of those in attendance.
  - (ii) Anyone who would like to make a statement during the hearing shall complete a “Request to Make a Statement” form. Completing the form is not a prerequisite to making comment at the hearing, but is only an aid to an orderly procedure in conducting the hearing.
  - (iii) The hearing shall be closed after all those who desire to do so have made comment. If warranted, the hearing officer may continue the hearing to a later time or grant an extension to the comment period.
- 4.7.7. A record shall be made of the hearing by either a mechanical recording device or stenographic reporter. The record shall include the names of those in attendance at the hearing, the name of the hearing officer, the comments presented at the hearing, and the written comments received during the comment period.
- 4.7.8. If the staff desires to recommend changes on the proposed regulation or amendment based on written comment received during the public comment period, it shall submit those comments to the hearing officer. The presiding officer shall summarize the comments and present them, together with any recommendations, to the Board of Health for its consideration.

4.7.9. The Board of Health may thereafter adopt or reject the proposed regulation, amendment, or repeal.

5. **RESERVED**

6. **RESERVED**

7. **RESERVED**

8. **RESERVED**

9. **EFFECTIVE DATE**

9.1. This regulation shall be effective upon its adoption by the Board of Health.

**APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

SALT LAKE VALLEY BOARD OF HEALTH

By: \_\_\_\_\_  
William S. Kidder, D.D.S.

ATTEST:

By: \_\_\_\_\_  
GARY L. EDWARDS, M.S.  
Executive Director  
Salt Lake Valley Health Department