

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

The UTAH STATE BULLETIN is the official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the Bulletin under authority of Section 63-46a-10, UTAH CODE ANNOTATED 1953.

Inquiries concerning administrative rules or other contents of the BULLETIN may be addressed to the responsible agency or to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone (801) 538-3218, FAX (801) 538-1773.

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## EDITOR'S NOTES

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### NOTICE OF A PUBLICATION ERROR IN THE JANUARY 15, 1998, ISSUE OF THE *UTAH STATE BULLETIN*

In the January 15, 1998, issue of the *Utah State Bulletin* (98-2), an effective date notice was published for Rule R986-417. This notice was incorrectly filed by Workforce Services as applying to the proposed amended rule, DAR No. 20208, that was published in the December 1, 1997, issue of the *Bulletin*. This was invalid because a change in proposed rule was published in the January 1, 1998, *Bulletin*, and could not be effective until at least February 3, 1998. Workforce Services has made the change in proposed rule effective as of February 3, 1998, and it is published in the NOTICES OF RULE EFFECTIVE DATES in this *Bulletin*.

*If you have any questions regarding this correction, please contact Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3777, FAX: (801) 538-1773, or Internet E-mail: [asitmain.khansen@email.state.ut.us](mailto:asitmain.khansen@email.state.ut.us).*

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### INFORMATION ABOUT THE UTAHBBS

UtahBBS is a computer bulletin board operated by the Division of Information Technology Services (ITS). Users have been able to access the bulletin board via dial-up lines (one number for the Salt Lake City local calling area; another number toll-free from anywhere else in the state), via telnet, and via the world wide web.

Decreased usage of the bulletin board and escalating costs associated with the toll-free line have prompted ITS to discontinue toll-free access to the bulletin board effective March 15, 1998. Users will be able to access the bulletin board in the following ways:

Local calling area dial-in: (801) 538-3383

Telnet: [bbs.state.ut.us](telnet://bbs.state.ut.us)

World wide web: <http://web.state.ut.us/its/bbs.htm>

The Division of Administrative Rules will continue to provide information on the bulletin board and on the world wide web. The Division's homepage address is <http://www.rules.state.ut.us>.

**End of Editor's Notes**

# SPECIAL NOTICES

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## DEPARTMENT OF HEALTH HEALTH SYSTEMS IMPROVEMENT, CHILD CARE LICENSING

### NOTICE OF AGENCY REVISION FOR R430-3

R430-3. General Child Care Facility Rules Inspection and Enforcement: This Notice corrects the previously filed Proposed Rule Analysis which did not accurately reflect all of the costs of the rule filing which was printed in the December 15, 1997, issue of the *Utah State Bulletin*, DAR No. 20265

The new cost statement for DAR No. 20265 is corrected to reflect the following costs:

7. Anticipated Costs or Savings:

State Budget: Approximately \$800 may be collected in civil money penalties to be deposited in the General Fund.

Local Government: None.

Other Persons (Aggregate): This rule authorizes the Department to require that providers correct problems identified during surveys of the facility. Providers that do not comply with the rules will be required to submit a plan of correction. Depending on the severity and number of the violations this will impose administrative and possible legal costs on the Provider. The Department is unable to accurately predict what this cost may be to Providers. The Provider may also be subject to civil money penalties and state monitors in the facility if circumstances warrant this penalty. Recent experience would suggest that civil money penalties per year may be assessed against 8 providers at an average of \$100 per provider for a total of \$800. State monitors have not been placed in any facility during the last year, so no costs are predicted in this area.

8. Compliance Costs for Affected Persons ("Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

| Rules                 | Per Unit Cost             | Anticipated cost or savings |
|-----------------------|---------------------------|-----------------------------|
| Civil money penalties | \$100 for 8 non-compliant | \$800                       |

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## DEPARTMENT OF HEALTH HEALTH SYSTEMS IMPROVEMENT, CHILD CARE LICENSING

### NOTICE OF AGENCY REVISION FOR R430-5

R430-5. Child Care Facility, General Construction: This Notice corrects the previously filed Proposed Rule Analysis which did not accurately reflect all of the costs of the rule filing which was printed in the December 15, 1997, issue of the *Utah State Bulletin*, DAR No. 20266.

The new cost statement for DAR No. 20266 is corrected to reflect the following costs:

7. Anticipated Costs or Savings:

State Budget: None.

Local Government: None.

Other Persons (Aggregate):

**SPECIAL NOTICES**

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**In-home providers:**

**Existing Providers:**

Fencing: If fencing needs to be installed, we estimate a cost of \$1,500 per provider. We estimate up to 200 in-home providers will need to install a fence for a one-time expense of a total of \$300,000.

Lighting Standard: 200 existing in-home providers will need to replace some light bulbs in the area where child care is provided. We estimated up to 200 in-home providers may need to make this change at \$25 per provider for a total of \$5,000.

**New Providers:**

Plans: In-home providers are only required to submit a simple hand-drawing of the home. We estimate no cost for this requirement.

Fencing: If fencing needs to be installed, we estimate a cost of \$1,500 per provider. We estimate up to 72 in-home providers will need to install a fence for a total of \$108,000.

Lighting Standard: New in-home providers may be required to upgrade fixtures and purchase some light bulbs. We estimate 62 new in-home providers per year will spend up to \$25 for a total of \$1,550.

Aggregate cost for In-home Providers : \$414,550.

**Child Care Centers:**

**Existing Providers:**

Lighting Standard: Some existing child care centers may need to upgrade their current lighting. We estimate 157 providers at \$25 for new light bulbs for a total of \$3,925.

Hand-drying Equipment: Ten of the existing centers may need to upgrade in this area. We estimate a cost of \$240.00 per facility for a total of \$2,400.

**New Providers:**

Plans: Ten new centers per year for a one-time cost of \$50 for mailing and copies of plans for total of \$500. We assume that the plans will already exist for the construction of the facility.

Infant-sinks for food and bottle preparation: Ten new centers for a one-time cost of \$300 which includes installation and equipment for a total cost of \$3,000.

Lighting Standard: Ten new centers per year for a one-time cost of \$25 to upgrade to the required fixtures for a total cost of \$250.

Maintenance Closet: Ten new centers per year for installation of equipment for a one-time cost of \$400 for a total cost of \$4,000.

Hand-drying Equipment: Ten of the new centers may need to upgrade in this area. We estimate a cost of \$240 per facility for a total of \$2,400.

Aggregate cost for Child Care Centers: \$16,475.

**8. Compliance Costs for Affected Persons ("Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):**

| Rules  | Per Unit Cost  | Anticipated cost or savings   |
|--|--|---|
| Plans for child care centers and existing homes.   | 10 Centers \$50 for mailing and copies of plans  | \$50 One-time expense (\$500)   |
| Infant Sink for food and bottle preparation in new centers.  | 10 Centers \$300 which includes installation and equipment   | \$300 One-time expense (\$3,000)  |
| Fencing around play areas, previously required for in-home providers only if a hazard existed. <i>Variances are permitted if the provider indicates no need for fencing.</i> | 200 existing in-home providers and approximately 72 new providers shall install a 4-foot fence at \$1,500                                | \$1,500 One-time expense (\$408,000)  |
| Lighting standards require a change in light bulb wattage or new fixture. <i>New requirement.</i>  | 429 providers (357 existing facilities and 72 new providers) will purchase new light bulbs or new fixture estimated at \$25 per provider | \$25 One-time cost for new fixture. (\$10,725). Bulbs are replaced as needed. |

|   |   |   |
|---|---|---|
| Maintenance closet in child care centers are required to have ventilation and floor sink. <i>New requirement.</i> | 10 Child Care Centers - Installation of ventilation equipment = \$100; Floor sink installation and equipment = \$300                              | \$400 One-time expense (\$4,000)          |
| Protected hand drying equipment in bathrooms for child care centers.  | 20 Child Care Centers (10 new child care centers and 10 existing) purchase of disposable towels at \$20 per month and equipment is installed free | \$240 annually for 20 providers (\$4,800) |

**DEPARTMENT OF HEALTH  
HEALTH SYSTEMS IMPROVEMENT, CHILD CARE LICENSING**

**NOTICE OF AGENCY REVISION FOR R430-6**

R430-6. Background Screening: This Notice corrects the previously filed Proposed Rule Analysis which did not accurately reflect all of the costs of the rule filing which was printed in the December 15, 1997, issue of the *Utah State Bulletin*, DAR No. 20267.

The new cost statement for DAR No. 20267 is corrected to reflect the following costs:

7. Anticipated Costs or Savings:

State Budget: Department of Public Safety \$1,500 annually.

Local Government: None.

Other Persons (Aggregate): There is no change from the previous rule. Approximately 100 individuals are fingerprinted annually to screen for criminal convictions at \$5 for the fingerprint card and \$10 for the background check totaling \$1,500.

8. Compliance Costs for Affected Persons ("Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

| Rules  | Per Unit Cost  | Anticipated cost or savings |
|--|--|-----------------------------|
| Background clearance required for criminal convictions. <i>No change from existing rule.</i> | \$5 for fingerprint card and \$10 to process the clearance for 100 individuals | \$1,500                     |

**DEPARTMENT OF HEALTH  
HEALTH SYSTEMS IMPROVEMENT, CHILD CARE LICENSING**

**NOTICE OF AGENCY REVISION R430-30**

R430-30. Adjudicative Procedures: This Notice corrects the previously filed Proposed Rule Analysis which did not accurately reflect all of the costs of the rule filing which was printed in the December 15, 1997, issue of the *Utah State Bulletin*, DAR No. 20268.

SPECIAL NOTICES

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The new cost statement for DAR No. 20268 is corrected to reflect the following costs:

7. Anticipated Costs or Savings:

State Budget: Contract for transcriptions and hearing officers \$500 annually.

Local Government: None.

Other Persons (Aggregate): There is no change from the previous rule.

8. Compliance Costs for Affected Persons ("Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency): None.

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**DEPARTMENT OF HEALTH  
HEALTH SYSTEMS IMPROVEMENT, CHILD CARE LICENSING**

**NOTICE OF AGENCY REVISION FOR R430-100**

R430-100. Child Care Facilities: This Notice corrects the previously filed Proposed Rule Analysis which did not accurately reflect all of the costs of the rule filing which was printed in the December 15, 1997, issue of the *Utah State Bulletin*, DAR No. 20269.

The new cost statement for DAR No. 20269 is corrected to reflect the following costs:

7. Anticipated Costs or Savings:

State Budget: None.

Local Government: Although the old rule and new rule have the same requirements, additional business and license fees may be collected by local governments of between \$25 - \$125 for each licensee. Additional costs to providers, if any, will result from enforcement of existing rules which may not have consistently occurred prior to the programs transfer to the Department of Health.

Other Persons (Aggregate): Bureau staff surveyed a random selection of 95 Family Care providers on January 20, 1998. These responses, when averaged, lead to a projected additional cost of \$46 per program per year multiplied by 2,060 licensed providers for a cost of \$94,760 (see note 1). The Bureau believes that this cost estimate may be too low (see note 2). We project an additional cost of up to \$56.00 for family care programs per year multiplied by 2,060 licensed providers for a cost of \$115,703 (see note 3). In addition, an estimated 450 caregivers will have had a positive skin test for TB and would be required to have a chest x-ray every two years at \$50 resulting in cost of \$22,500. The revised cost analysis has been reviewed and approved by the Child Care Licensing Advisory Committee on February 1, 1998.

NOTES:

(1) As detailed in the compliance costs for affected persons in section 8 of this submission, the only new requirements in the rule pertain to two net additional hours of training, clean-up kits and disinfecting toys. All other listed costs are projections of additional costs resulting from more consistent enforcement of existing rules.

(2) Bureau staff assumed that no providers had already complied with TB and other requirements in arriving at the \$62 figure. Since many providers have already complied with these requirements, the actual cost may be closer to the \$46 per program.

(3) This does not reflect the net savings of \$18,090 for the change in rule that eliminates the requirement that caregivers have an initial physical examination.

8. Compliance Costs for Affected Persons ("Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

| Rules  | Per Unit Cost                            | Anticipated cost or savings   | Total annualized cost to industry |
|--|--|---|-----------------------------------|
| Physical examinations were required in old rules for initial licensing. <i>Requirements reduced in new rule.</i>   | \$67 for 270 new providers               | Savings of \$67 per 270 new caregiver -- net savings of \$18,090                | \$18,090                          |
| TB Testing every 2 years. <i>No change from existing rule.</i>   | \$5                                      | \$5 every 2 years (2,060 x \$5 = \$10,300 divided by 2 years)                   | \$5,150                           |
| 20-hours of Inservice Training now includes CPR and First Aid hours, which were required but not counted in the previous rule requiring 12 hours, which results in a net increase of two hours of additional training. <i>New requirement add 2 hours of training.</i> | Net increase of 2 hours at \$10 per hour | \$20 annually (2,060 x \$20 = \$41,200)   | \$41,200                          |
| Food Handler Permit. <i>No change from existing rule.</i>  | \$5 every 3 years                        | \$5 every 3 years (2,060 x \$5 = \$10,300 divided by 3 years)                   | \$ 3,433                          |
| Protective gloves for bodily fluids. <i>No change from existing rule.</i>  | \$7 per 100                              | \$7 (2,060 x \$7 = \$14,420)  | \$14,420                          |
| Clean-up kits (two required one for vehicle and one for house). <i>New requirement.</i>  | \$10                                     | \$20 (2,060 x 2 kits x \$10 = \$41,200)   | \$41,200                          |
| Disinfecting toys weekly. <i>New requirement.</i>  | \$5 for 5 gallons of chlorine bleach     | \$5 annually (2,060 x \$5 = \$10,300)   | \$10,300                          |
| <b>Total Net Cost</b>  |  |   | <b>\$115,703</b>                  |
| * Special note *<br>Chest x-rays for approximately 450 child care providers who have a positive TB test. <i>No change from existing rule.</i>  | \$50 every 2 years                       | \$50 every 2 years for TB screening. (\$50 x 450 = \$22,500 divided by 2 years) | \$11,250                          |

**End of Special Notices**

## 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 January 15, 1998, 5:01 p.m., and February 2, 1998, 5:00 p.m., are included in this, the February 15, 1998, 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 (•••••) indicates that unaffected text was removed to conserve space. If a 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 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 March 17, 1998. The agency may accept comment beyond this date and will list 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 to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through June 15, 1998, 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 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing 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 UTAH CODE Section 63-46a-4 (1996); and UTAH ADMINISTRATIVE CODE 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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Is Intentionally Left Blank.**

Agriculture and Food, Marketing and Conservation

R65-11

Utah Sheep Marketing Order

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 20699

FILED: 01/27/98, 13:22

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: This Market Order is established to improve conditions in the sheep producing industry.

SUMMARY: This rule establishes the requirements and responsibilities of the board, provisions of the order, division of funds, and liabilities of the board members.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 4-2-2(1)(e)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
❖LOCAL GOVERNMENTS: None.
❖OTHER PERSONS: Assessments set by the Board and approved by the commissioner for each producer.
COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Agriculture and Food Marketing and Conservation 350 North Redwood Road PO Box 146500 Salt Lake City, UT 84114-6500, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Randy Parker at the above address, by phone at (801) 538-7108, by FAX at (801) 538-9436, or by Internet E-mail at agmain.rparker@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 04/04/98, 1:00 p.m., Main Conference Room, 350 North Redwood Road, Salt Lake City, UT .

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Van Burgess, Deputy Commissioner

R65. Agriculture and Food, Market and Conservation.

R65-11. Utah Sheep Marketing Order.

R65-11-1. Authority.

A. Promulgated under authority of Subsection 4-2-2(1)(e), which authorizes issuing marketing orders to promote orderly market conditions for agricultural products.

B. The Commissioner of Agriculture and Food finds that it is in the public interest to establish a marketing order to improve conditions in the sheep producing industry. The commissioner finds that the issuance of this marketing order is approved and favored by at least 50 percent of the producers and handlers voting on the referendum. It is therefore ordered by the commissioner that this Order be established to assure an effective and coordinated program to maintain and expand the Utah sheep industry's market position, and that the producers shall be subject to the terms and provisions of the Order.

R65-11-2. Definition of Terms.

A. "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food.

B. "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, legal representative, or any other entity.

C. "Sheep" means rams, ewes, or lambs.

D. "Producer" means a person owning at least 100 rams, ewes, or lambs.

E. "Registered producers" means producers who have indicated that they want to be included in the marketing order voting process by registering to vote in the referendum. Registration forms may be mailed out with the ballots.

F. "Handler" means an individual or an organization engaged in the merchandising of sheep or sheep products.

R65-11-3. Board.

A. The Utah Sheep Board is hereby established consisting of five members of the sheep industry, plus ex-officio non-voting members from BYU and USU and the Utah Department of Agriculture and Food.

B. The original members of the Board shall be selected by the commissioner from a list submitted by the industry.

C. Successors to original members shall be appointed by the commissioner from names submitted by the industry. Two members shall be appointed for a period of three years. Three members shall be appointed for a period of four years. After the first three years, each appointed member shall serve for a period of four years. This rotation shall be in effect for the term of the marketing order. In the event of a vacancy the commissioner shall appoint a new member from names submitted by the Board.

D. Members of the Board shall only succeed themselves once and not serve on the Board for more than eight consecutive years.

E. The officers of the Board shall be selected from the five Board members at their first meeting after organization. The officers shall consist of a Chairman and a Vice Chairman, to be elected yearly by the members of the Board. In the event of a vacancy or unfilled office, it shall be filled through an election as soon as practical and shall be for the remainder of the unexpired term.

F. The Board shall exercise the following functions, powers and duties:

1. to receive and expend funds collected for the benefit of the Utah sheep producers.

2. to cooperate with any local, state or national organization engaged in activities similar to those of the Sheep Marketing Board.

3. to conduct educational programs and advertizing to promote sheep and sheep products.

4. to conduct research projects to improve the profitability of the Utah Sheep Industry.

5. to engage in any activity to promote the Utah sheep industry.

G. Attendance of three members at a duly called meeting shall constitute a quorum for the transaction of official business. The Board shall meet at least quarterly.

H. Each member of the Board is entitled to per diem and expenses in accordance with Sections 63A-3-106 and 63A-3-107.

I. A financial report will be made available annually for the Board and members of the industry by the Utah Department of Agriculture and Food.

**R65-11-4. Provisions of the Order.**

A. This order provides for:

1. Uniform grading and inspection of sheep products sold or offered for sale by producers or handlers and for the establishment of grading standards of quality, conditions, and size. Such grading standards shall not be established below any minimum standards now prescribed by law for the State.

2. Advertising and sales promotion to create new or larger markets for sheep products produced in Utah, provided that any such plan shall be directed towards increasing the sale of such commodity without reference to particular brand or trade name.

3. The labeling, marketing, or branding of sheep products in conformity with the regulations of the commissioner or the laws of the State of Utah already in existence and written in the Utah Code.

4. Research projects and experiments for the purpose of improving the general condition of the Sheep Industry and for the purpose of protecting the health of the people of Utah.

5. The Board may cooperate with any other state or federal agency whose activities may be deemed beneficial to the purpose of this Order.

B. Expenses - Assessments - Collection and Disbursement.

1. Each producer subject to this Order shall pay to the board his or her pro rata share of such expenses as the commissioner may find necessary to be incurred by the Board for the functioning of said Marketing Order. Each producer shall pay up to 5 cents per pound of wool shorn to the Board annually. The discretionary assessment shall be set by majority vote of the Board, and approved by the commissioner. The initial assessment shall be 2 cents per pound. This assessment levied in the specified amount shall constitute a personal debt of every person so assessed and shall be due and payable upon sale of wool. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the product covered by the Order which is distributed, sold, or shipped in commerce by such cooperative association of producers.

2. The assessment of each producer shall be deducted from the producer's gross receipt by the wool purchaser or handler. All proceeds from the deducted portion shall be paid at least quarterly

to the Sheep Board. Sheep spending part of the year in Utah shall be assessed pro rata based on the time spent in Utah.

3. The Board shall retain records of the receipt of the assessment. The records shall be audited annually by an auditor approved by the commissioner. Copies of the audit shall be available to any contributor upon request.

4. The Board is required to reimburse the commissioner for any funds as are expended by the commissioner in performing his duties, as provided in this Order. Such reimbursement to include only funds actually expended in connection with this Order.

5. The Board is authorized to incur such expenses as are necessary to carry out its functions subject to the approval of the commissioner. The Board shall receive and disburse all funds received by it pursuant to Section R65-6-5. Any funds remaining at the end of any year over and above the necessary expenses of said Board may be divided among all persons from whom such funds were collected. At the discretion of the Board, such amounts may be applied to the necessary expenses of the Board for the continuation of its program during the next succeeding year.

6. Any producer who wishes a refund of their paid assessment may request such by notifying the Board in writing within thirty days of payment of the assessment subject to approval of the Board.

7. The Order shall become operational only if it is approved by at least 50 percent of the producers and handlers voting in the referendum or by producers and handlers who account for at least two-thirds of the production represented by persons voting in the referendum.

**R65-11-5. Division of Funds.**

Assessments made and monies collected under provisions of this order shall be divided into assessments and funds for:

A. administrative purposes,

B. educational purposes, advertising and promotional purposes, and

C. research purposes. Such assessments and funds shall be used solely for the purposes for which they are collected; provided, that funds remaining at the end of any year may be used in the succeeding year and provided, that no funds be used for political or lobbying activities.

**R65-11-6. Board - Member's Liability.**

No member of the Board, nor any employee of the Board, shall be deemed responsible individually in any way whatsoever to any producer, distributor, handler, processor, or any other person, for errors of judgment, mistakes, or other acts, either of commission or omission of principal, agent, person, or employee, except for his own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the Board. The liability of the members of such Board shall be several and not joint, and no member shall be liable for the default of any other member.

**R65-11-7. Complaints for Violations - Producer.**

Complaints for violations shall be handled by the responsible legal agencies and shall be enforced in the civil courts of the state.

**R65-11-8. Termination of Order.**

The commissioner may terminate the Marketing Order at such time as he may determine there is no longer an industry need for

such order. A referendum vote may be called at the request of the producers through a petition of 40 percent of the producers.

**R65-11-9. Quarterly Meeting.**

The Board shall meet at least quarterly.

**KEY: promotions**

**1998**

**4-2-2(1)(e)**



**Agriculture and Food, Regulatory Services  
R70-530**

**Food Establishment Sanitation Rule**

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)  
DAR FILE No.: 20721  
FILED: 02/02/98, 11:09  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: This rule establishes definitions, sets standards for management and personnel, food operations, equipment, and facilities, and provides for food establishment plan review, inspection, and employee restriction. The rule also regulates bakeries, grocery and convenience stores, meat markets, food and grain processors, warehouses, and any other establishment meeting the definition of a food establishment.

SUMMARY: The old rule is contained in the new rule in a different format. Significant changes in the proposed rule include: new requirements for food establishment employees to demonstrate food safety knowledge as it pertains to their operation; new cooking times and temperatures; a new refrigeration temperature of 41 degrees F or below; new cooling rates for hot foods; new requirements for food employees to report information about their health that will allow the person in charge to prevent the likelihood of a foodborne disease transmission; requirement for the implementation of Hazard Analysis Critical Control Point (HACCP) in certain food processors. Changes also include adding a "special requirements" section for specialized food processing operations, such as rabbit processors, canneries, bottled water, ice plants, produce stands, and for distressed or salvaged food.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 4-5-17

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 21 CFR 1 through 200, 40 CFR 185, and 9 CFR 200 to the end, April 1, 1997 editions

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any costs incurred through non-compliance of these rules.

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

Agriculture and Food  
Regulatory Services  
350 North Redwood Road  
PO Box 146500  
Salt Lake City, UT 84114-6500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Becky Shreeve at the above address, by phone at (801) 538-7149, by FAX at (801) 538-7126, or by Internet E-mail at [agmain.bshreeve@email.state.ut.us](mailto:agmain.bshreeve@email.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/05/98, 1:00 a.m., Main Conference Room, 350 North Redwood Road, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Van Burgess, Deputy Commissioner

**R70. Agriculture and Food, Regulatory Services.**

**[R70-530. Food Establishment Sanitation Rule:**

**R70-530-1. Authority and Purpose:**

~~— A. Promulgated Under the Authority of Section 4-5-17.~~

~~— B. Adopted by reference: The division adopts the food standards, labeling requirements and procedures as specified in 21 CFR, 1 through 200, April 1, 1996 edition, which is incorporated by reference within this rule.~~

~~— C. Purpose: This rule shall be liberally construed and applied to promote its underlying purpose of protecting public health, and shall be used to regulate bakeries, grocery and convenience stores, meat markets, food and grain processors, warehouses and any other establishment meeting the definition of a food establishment.~~

**R70-530-2. Definitions:**

~~— For the purpose of this rule:~~

~~— A. "Bulk food" means unpackaged or unwrapped, processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn. For the purpose of this interpretation, the term does not include fresh fruits, fresh vegetables, nuts in the shell, salad bars and potentially hazardous foods.~~

~~— B. "Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.~~

— C. "Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue can be effectively removed by normal cleaning methods:

— D. "Employee" means the owner, individual having supervisory or management duties, person on the payroll, family member, volunteer, or any other person working in a food store:

— E. "Equipment" means items other than utensils used in the storage, preparation, display, and transportation of food such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers, and similar items used in the operation of a food establishment. This item does not include fork lift trucks or dollies:

— F. "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption:

— G. "Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food:

— H. "Food establishment" shall mean grocery store, bakery, candy factory, or processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill, warehouse (cold or dry storage) and any other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold or offered for sale. This rule shall not cover food service establishments, dairy farms or plants, or meat establishments under the official meat inspection program:

— I. "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term may include convenience stores and delicatessens that offer prepared food in individual service portions. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles:

— J. "Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing:

— K. "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations:

— L. "Packaged" means bottled, canned, cartoned, bagged, or securely wrapped:

— M. "Person" includes any individual, partnership, corporation, association, or other legal entity:

— N. "Person in charge" means the individual present who is supervising the food establishment at the time of inspection:

— O. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include: foods that have a pH level of 4.6 or below or a water activity,  $a_w$ , value of 0.85 or less under standard conditions; food products in hermetically sealed containers processed to prevent spoilage:

— P. "Primal cuts of meat" on beef means round, loin, flank, rib, chuck, brisket, plate and shank. "Primal cuts of meat" on pork means ham, loin, side, spareribs, shoulder and jowl:

— Q. "Regulatory authority" means the Utah Department of Agriculture and Food:

— R. "Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. Food and color additives must be used in conformity with applicable state and federal requirements:

— S. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on cleaned food-contact surfaces of utensils and equipment:

— T. "Sealed" means free of cracks or other openings that permit the entry or passage of moisture:

— U. "Single-service articles" means items used by the retailer or consumer such as cups, containers, lids, and packaging materials, including bags and similar articles, intended for contact with food; and designed for one-time use. The term does not include "single use" articles such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer:

— V. "Sub-primal cuts of meat" means smaller than primal cuts. An example would be when the primal round is split into top round, bottom round, eye of the round and sirloin tip:

— W. "Transportation (transported)" means movement of food within the food establishment or delivery of food from that food establishment to another place while under the control of the person in charge:

— X. "Utensil" means any food-contact implement used in the storage, preparation, transportation, or dispensing of food:

— Y. "Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils:

### **R70-530-3. Food and Food Supplies:**

— Note: In the following sections of this rule, the item number and interpretation, as they generally relate to the Food Establishment Inspection Form, will be noted in parenthesis:

#### **— FOOD SUPPLIES**

##### **— 3-101. General:**

— A. Food shall be in sound condition, free from filth, decay and other contamination, and safe for human consumption. (1-sound)

— B. Food shall be obtained from sources that comply with the applicable laws relating to food safety and food labeling. Food prepared in a home shall not be used or offered for sale. (1-source)

##### **— 3-102. Special requirements:**

— A. Fluid milk and fluid milk products used or offered for sale shall comply with the Grade "A" standards as established by R70-310 and Title 4, Chapter 3. Dry milk and milk products shall be made from pasteurized milk and milk products. (1-source)

— B. Food shall be offered for sale in its original container, or if repackaged, the repackaging process shall conform to these rules: (2-container) Product shall be labeled in compliance with the Utah Department of Agriculture and Food's labeling requirements, 21 USC 343, known as the Federal Fair Packaging and Labeling Act; the Nutrition Labeling and Education Act of 1990. (2-labeled)

— C. Fresh and frozen shucked shellfish, shall be received and repacked in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the state certification number issued according to law. (2-labeled) Shucked shellfish should be kept in the container in which they were received until used or sold. Each original container of unshucked shellfish, oysters, clams, or mussels, shall be identified by an attached tag, to be retained for a period of 90 days, that states the name and address of the original shellfish processor, the kind and quantity of shellfish, and the certification number issued by the State or foreign shellfish control agency, where applicable. (2-container)

— D. Only clean shell eggs meeting state and federal grade standards or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale. (1-source)

— E. Only ice which has been manufactured from potable water and packaged and handled in a sanitary manner shall be used or offered for sale. (1-source) Ice offered for sale shall be packaged. (1-source)

— F. Food not intended for human consumption in a cold storage warehouse shall be conspicuously labeled, "Inedible - Not For Human Consumption." (7-detained)

— G. All bulk food product modules shall be labeled with:

- 1. Product Name;
- 2. Manufacturer, packer or distributor's name and address;
- 3. Declaration of each ingredient in descending order of predominance by weight. The ingredient statement shall be printed in type size not less than 1/8" in height and shall be easily legible.
- 4. The product price per whole unit of weight, measure, or count, such as price per pound or ounce.

— H. Labels or marking pens shall be available to customers to identify their take-home containers with the common name of the product. (2-labeled)

— I. Any food establishment adding sulfiting agents, such as sulfur dioxide, sodium sulfite, sodium and potassium bisulfite, and sodium and potassium metabisulfite to food products shall label the product as containing the specific agent. This declaration shall be done as follows:

- 1. If the product is packaged, it shall bear a label stating it contains the specific sulfiting agent.
- 2. If the product is unpackaged, as in produce products or bulk foods, a conspicuous placard shall state that the specific sulfiting agent is being used on or in food products.

— No food products shall be exempted from this labeling. The use of sulfiting agents in fresh meat products is prohibited. (1-source)

— REASON: The quality and safety of products used or offered for sale by the food establishment is based on the condition of the food at the time it is received from the supplier. Food must first have been protected during production, processing, packaging, storage, and transportation if it is to be acceptable for the consumer following food establishment operations. Even the best quality control and public health measures at the food establishment cannot improve food which is marginal or unacceptable when received.

— The requirements of these sections are designed to reduce the risk of receiving food which is of unacceptable quality and safety. The use or sale of non-commercially packaged hermetically sealed food is prohibited because of the history of such food in causing food borne illness. The special requirements for eggs and egg

products and for milk and milk products are included because these products are exceptionally good media for the growth of pathogens. Labeling requirements for shellfish provide a means of assuring that the source of the shellfish is under the control of a regulatory authority.

— On bulk foods, labels or marking pens will help to ensure that the customer can separate and identify products with similar appearance to prevent the interchange of toxic or non-edible materials with edible products.

— FOOD PROTECTION

— 3-201. General:

— At all times, including while being stored, prepared, displayed, dispensed, packaged, or transported, food shall be protected from cross-contamination between foods and from potential contamination by rodents, insects, toxic items, probe-type price or probe-type identification tags, unclean equipment and utensils, unnecessary handling, flooding, draining, and overhead leakage or condensation, or other agents. (7-cross contamination or 8-protection) The temperature of potentially hazardous foods shall be 45 degrees F, =7 degrees C, or below or 140 degrees F, 60 degrees C, or above, at all times, except as otherwise provided in this rule. (3-temperature) Hermetically sealed packages shall be handled so as to maintain product and container integrity. Food items that are spoiled, damaged, or in damaged containers and those which have been returned to or are being detained by the retail food store because of spoilage, damage or possible adulteration, unless promptly disposed of shall be segregated and held in designated areas pending final disposition. (7-damaged, detained, segregated)

— 3-202. Bulk Foods:

— A. Bulk foods and product modules shall be protected from contamination during display, customer self-service, refilling and storage. (8-protection)

— B. Containers of bulk pet foods and bulk non-food items shall be separated by a barrier or open space from food modules. (8-protection or 41-storage)

— C. Bulk food returned to the store by the customer shall not be offered for resale. (7-segregated)

— D. Only containers provided by the store in the display area shall be filled with bulk foods, except as provided under section R70-530-3-202(g). (8-protection)

— E. Customers shall be instructed to use dispensing utensils to dispense bulk products and that handling the products without using the dispensing utensils is prohibited. (9-minimized)

— F. In establishments with a bulk food section, store personnel shall be assigned to monitor and supervise the area to maintain proper sanitary conditions. (8-food protection)

— G. It is acceptable to refill a take home beverage container when returned to a food establishment provided that:

- 1. there is no refilling with beverages which are potentially hazardous foods;
- 2. only product-specific containers are refilled, not applicable to water vending;
- 3. the design of the container, the design of the rinsing equipment and nature of the beverage, when considered together, permit effective cleaning;
- 4. facilities for the rinsing of returned containers with fresh, not recirculated, hot water under pressure prior to refilling are provided as part of the dispensing system, not applicable to water vending;

— 5. the container is of such design, narrow mouth, that it cannot be misused to scoop bulk foods; and

— 6. the container is refilled either by an establishment employee or by the owner of the container; if filled by the owner, then the beverage system must include a contamination free transfer process which cannot be by-passed by the customer.

— 3-203. Emergency Occurrences.

— The person in charge of a food establishment that is affected by a fire, flood, extended power outage, or a similar significant occurrence that creates a reasonable probability that food in the food establishment may have been contaminated or that the temperature level of food which is in a potentially hazardous form may have caused that food to have become hazardous to health; shall take such action as is necessary to protect the public health and shall promptly notify the regulatory authority of the emergency.

— REASON: Food which is wholesome and safe when received from the supplier can become contaminated with filth, pathogenic microorganisms, and toxic chemicals if it is mishandled within the food establishment.

— The requirements contained in this section are designed to protect food from the numerous potential sources of contamination that may occur during the various food establishment operations and are intended to place emphasis on food temperature control of potentially hazardous foods.

— Separation of bulk food product modules from non-food items and pet food prevents possible cross-contamination. Bulk food, once taken from the store, must be considered contaminated, and if returned by the customer, shall not be reintroduced for sale. The prohibition against containers being brought in from outside prevents the introduction of contaminants into the store.

— FOOD STORAGE

— 3-301. General.

— Food in original containers, except raw, unprocessed produce, once opened, shall be kept covered. Food, except raw, unprocessed produce, if removed from the container or package in which it was obtained shall be stored in a clean, covered container, except during necessary periods of preparation, and shall be protected from contamination at all times. (8-protection)

— Container covers shall be impervious and nonabsorbent. (14-constructed)

— During periods of storage, subprimal cuts of meat shall be covered with single-service wrapping material. (8-storage) Primal cuts, quarters or sides of meat, or processed meats such as country hams, slab bacon, and smoked or cured sausages, may be hung uncovered on clean, hooks or placed sanitized on clean, sanitized metal racks in such a manner as to preclude contamination of any food products in storage. (22-clean and 20-sanitized) Hanging meat is not to hang within 12 inches of the floor. (8-storage)

— A. Containers of food shall be stored a minimum of six inches, 152 millimeters, above the floor or stored on dollies, skids, racks, or open-ended pallets, provided such equipment is easily movable; either by hand or with the use of pallet-moving equipment that is on the premises and used. Such storage shall allow for easy cleaning of the storage area. Such storage areas shall be kept clean. Cased food packaged in cans, glass, or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean. (8-storage)

— B. Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated. (8-storage)

— C. Packaged foods shall not be stored in contact with water or undrained ice. (8-storage)

— D. Bulk food ingredients shall be stored in containers identifying them by common name. (2-labeled)

— E. Toilet rooms and their vestibules, and garbage or mechanical rooms shall not be used for the storage of food. (8-storage)

— 3-302. Refrigerated/frozen storage.

— A. Refrigeration or frozen storage units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at required temperatures during storage and transportation. (4-facilities) Each mechanically refrigerated or frozen storage unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus two degrees F, = plus or minus one degree C. (5-provided) The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature in the unit. (5-accurate) The thermometer scale shall be located to be easily readable. (5-conspicuous) Recording thermometers, accurate to plus or minus two degrees F, = plus or minus one degree C, may be used in lieu of indicating thermometers.

— B. Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45 degrees F, = 7 degrees C, or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45 degrees F, = 7 degrees C or below unless maintained in accordance with the hot storage requirements of this rule. (3-storage)

— C. Shell eggs shall be refrigerated at an air temperature not to exceed 45 degrees F, = 7 degrees C. (3-storage)

— D. Potentially hazardous frozen foods shall be kept frozen and should be stored at an air temperature of 0 degrees F, = -18 degrees C or below except for defrost cycles and brief periods of loading or unloading. (3-storage)

— E. Ice used as a cooling medium for food storage shall not be used or sold for human consumption. (8-storage)

— 3-303. Hot storage.

— A. Hot food storage units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at the required temperature during storage and transportation. (4-facilities) Each hot food storage unit storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus two degrees F = plus or minus one degree C. The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the temperature in the unit. (5-provided and 5-accurate) The thermometer scale shall be located to be easily readable. (5-conspicuous) Recording thermometers accurate to plus or minus two degrees F, = plus or minus one degree C may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as heat lamps or calrod

units, a food product thermometer shall be available and used to check internal food temperature. (5-provided)

—B. The internal temperature of potentially hazardous foods requiring hot storage shall be 140 degrees F, =60 degrees C or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140 degrees, F=60 degrees C or above unless maintained in accordance with the refrigerated storage requirements of this rule. (3-storage)

—REASON: Proper care during storage is important in assuring that the condition of food when received is maintained and protected. Requirements of these sections are intended to prevent contamination of food and to control the growth of naturally occurring food spoilage and disease-causing microorganisms.

—Food must be covered in order to provide physical protection of the food. Containers and covers must be impervious and non-absorbent to eliminate the possibility of their being a source of contamination:

—Food storage locations are restricted to minimize risk of food contamination from other foods, equipment, routine employee activities, and environmental systems. Labeling of bulk ingredients is required to prevent confusion which could lead to inadvertent contamination of food during preparation.

—Provisions covering the availability of hot and refrigerated/frozen food storage facilities, and the parameters defining the cooling period for foods in storage, are included since controlling product temperature is the best means available for controlling growth of pathogens in food. Thermometers are required in or on equipment to provide a means for monitoring air temperatures around potentially hazardous foods.

#### —FOOD PREPARATION

##### —3-401. General:

—A. Food shall be prepared with a minimum of manual contact. (9-minimized) Food shall be prepared on food-contact surfaces and with utensils which are clean and have been sanitized. (22-clean and 20-sanitized)

—B. When different species of meats are processed on the same food contact surface, they shall be processed in the following order: Ready to eat foods or meats, raw beef, raw pork, raw poultry. Any regression in this procedure requires complete cleaning and sanitizing of the food contact surfaces and utensils. When processing raw seafoods, all equipment shall be completely cleaned and sanitized prior to, and after, its processing or preparation. (22-clean and 20-sanitized) Salads and other ready-to-eat foods shall be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products if the ready to eat foods are not completely processed or prepared prior to the start of processing or preparation of raw products. (7-cross contamination)

—C. Potentially hazardous foods that are in a form to be consumed without further cooking such as salads, sandwiches, and filled pastry products should be prepared from chilled products. (3-preparation)

—3-402. Raw fruits and raw vegetables. Raw fruits and raw vegetables that will be cut or combined with other ingredients or will be otherwise processed into food products by the food establishment shall be thoroughly cleaned with potable water before being used. (8-preparation)

—3-403. Cooking potentially Hazardous Foods. Potentially hazardous foods being processed within the food establishment by cooking shall be cooked to heat all parts of the food to a temperature of at least 140 degrees F, =60 degrees C, (3-preparation), except that:

—A. Poultry, poultry stuffings, stuffed meats, and stuffings containing meat, shall be cooked to heat all parts of the food to at least 165 degrees F, =74 degrees C with no interruption of the cooking process. (3-preparation)

—B. Pork and pork products shall be cooked to heat all parts of the food to at least 150 degrees F, =66 degrees C or, if cooked in a microwave oven, to at least 170 degrees F, =77 degrees C. (3-preparation)

—C. Roast beef or cooked beef shall be prepared by a cooking procedure that either produces a minimum temperature of 140 degrees F, 60 degrees C, throughout the roast, or complies with the United States Department of Agriculture and Food's requirements for preparing cooked or roast beef. (3-preparation)

—D. Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145 degrees F, =63 degrees C. (3-preparation)

—3-404. Bakery product fillings. Custards, cream fillings, and similar products, including synthetic fillings shall be 45 degrees F, =7 degrees C, or below following preparation and be maintained at that temperature during storage, transportation, and display. (3-temperature) Products with synthetic fillings may be excluded from this requirement if:

—A. The food, including the interface between the bakery product and its filling, has a pH level of 4.6 or below or a water activity value of 0.85 or less under standard conditions, and documentation is on file at the production site which explains the exclusion; or

—B. Other scientific evidence is on file with the regulatory authority demonstrating that the specific product will not support the growth of pathogenic microorganisms. Bakery products with synthetic fillings, which meet the above criteria, may be labeled to state that refrigeration is not required.

—3-405. Reheating. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165 degrees F, =74 degrees C, or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods. (3-temperature)

—3-406. Food product thermometers. Metal stem-type or other approved, unbreakable, numerically scaled indicating thermometers, (14-constructed) accurate to plus or minus two degrees F, = plus or minus one degree C, shall be provided and used (5-accurate and 5-provided) to assure attainment and maintenance of proper temperatures during preparation of all potentially hazardous foods.

—3-407. Thawing potentially hazardous foods. Potentially hazardous foods shall be thawed:

—A. In refrigerated units at a temperature not to exceed 45 degrees F, = 7 degrees C; or

—B. Under potable running water at a temperature of 70 degrees F, = 21 degrees C or below, with sufficient water velocity to agitate and float off loose food particles into the overflow and for a period not to exceed that reasonably required to thaw the food; or

—C. In a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a

continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

— D. As part of the conventional cooking process. (6-thawed)

— REASON: Food preparation is the process of necessary manipulation during which food is subjected to potential contamination from the greatest number of sources. Requirements of these sections are intended to reduce the likelihood of contamination during preparation as much as practicable and to destroy microorganisms or prevent their rapid growth in foods which may have become contaminated. The temperatures specified for thawing, cooking and reheating are based on safety requirements. Higher cooking temperatures may be necessary in order to meet consumer expectations for doneness.

— FOOD DISPLAY

— 3-501. Potentially Hazardous Foods. Potentially hazardous foods shall be held at an internal temperature of 45 degrees F, =7 degrees C or below or at an internal temperature of 140 degrees F, =60 degrees C or higher during display, except that rare roast beef which is offered for sale hot shall be held at a temperature of not less than 130 degrees F, =55 degrees C after proper cooking.

— 3-502. Frozen Foods. Foods intended for sale in a frozen state should be displayed at an air temperature of 0 degrees F, =18 degrees C or below, except for defrost cycles and brief periods of loading or unloading. Frozen foods should be displayed below or behind product food lines according to cabinet manufacturers' specifications. (3-display)

— A numerically scaled indicating thermometer, accurate to plus or minus two degrees Fahrenheit shall be provided in all frozen food display units. (5-thermometer)

— 3-503. Food Display. Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by being packaged, by display cases, by covered containers for self-service, or by similar protective equipment. All food shall be displayed above the floor in a manner that will protect the food from contamination. (8-protection and 8-packaging) Hot or cold food units shall be provided to assure the maintenance of potentially hazardous food at the required temperature during display. (4-facilities) Products which shall not be offered for customer self-service are:

— A. Potentially hazardous foods, except in salad bars;

— B. Powdered milk;

— C. Cheeses, including powdered and grated;

— D. Products which cannot easily be dispensed with a utensil, such as long spaghetti. (8-protection) Bulk foods shall be dispensed only from product modules which are protected by close fitting, individual covers. If opened by the customer, the covers shall be self-closing (14-designed) and shall remain closed when not in use. (8-protection)

— 3-504. Dispensing utensils. To avoid unnecessary manual contact with the food, suitable dispensing utensils and single-service articles shall be used by employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils. (9-minimized)

— A. Dispensing utensils for employee use shall be:

— 1. Stored in the food with the dispensing utensil handle extended out of the food; or

— 2. Stored clean and dry; or

— 3. Stored in running potable water. (10-stored)

— B. Manual contact of bulk foods by the customer during dispensing shall be avoided. (9-minimized) Methods considered suitable are:

— 1. Mechanical dispensing devices including gravity dispensers, pumps, extruders and augers;

— 2. Manual dispensing utensils including tongs, scoops, ladles and spatulas; and

— 3. Wrapping or sacking. If the dispensing devices and utensils listed in 3-504-B-1 and B-2 do not prevent manual customer contact with certain bulk foods, then these foods must be wrapped or sacked prior to display. Manual dispensing utensils listed in 3-504-B-2 shall be protected against becoming contaminated and serving as vehicles for introducing contamination into bulk food. (10-stored) Means considered suitable include, but are not limited to:

— A. Using a tether which is easily removable from the product module, constructed of easily cleanable material, is of such length that the utensil cannot contact the floor, and is designed to prevent interference with the requirement for close fitting covers; or

— B. Storing the utensil in a sleeve or protective housing attached or adjacent to the display unit when not in use, or utilizing a utensil designed so that the handle cannot contact the product if left in the product module. (15-designed)

— 3-505. Food sample demonstrations and food promotions. When food sample demonstrations and food promotions are authorized in the food establishment, the person in charge shall ensure that such activities comply with the applicable sanitation provisions of this rule. (all applicable terms)

— 3-506. Ice Dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice dispensing utensils or through automatic, self-service ice dispensing equipment. (9-minimized) Scooping of ice with a cup or glass or similar container is prohibited. (14-design) Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing handle extending out of the ice. (10-stored) Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. (24-storage) Ice storage bins shall be drained through an air break as defined in the Utah Plumbing Code R449-100. (29 installed)

— 3-507. Display Equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display:

— REASON: Any relaxation or lapse in concern for protecting food during display and service can negate all earlier efforts to maintain quality of food that has been carefully purchased, stored, and prepared. Requirements in these sections are intended to:

— A. assure continued control of the product temperatures of potentially hazardous foods; and

— B. direct the efforts of store employees toward use of sanitary display and dispensing procedures; and

— C. protect food from contamination by store patrons.

— Mechanical dispensing devices afford the greatest protection from manual contact with bulk food. Manual dispensing utensils, when used and handled properly, minimize product contact. Tethers on the utensils prevent accidental utensil contact with the floor.

— The storage of tongs and scoops in sleeves and protective housings prevents contaminated handles from contacting food and helps protect the utensil from environmental contamination. Ladles and spatulas are best stored in products with handles extended to minimize dripping and soiling.

— 3-601. Food Transportation By the Food Establishment. Food, other than hanging primal cuts, quarters, or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of this rule relating to food protection and food storage. Foods packaged in immediate closed containers do not need to be overwrapped or covered if the immediate closed containers have not been opened, torn, or broken. (3/8-transportation)

— REASON: Special circumstances that arise during the transportation of food can make protection of food and maintenance of proper food temperatures more difficult, thereby increasing the possibility of contamination and microbial growth. Requirements of this section are intended to assure that food is as carefully protected while being transported as it is during other food establishment operations.

#### **R70-530-4. Personnel:**

— 4-101. Employee Health. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons. (11-restricted)

— REASON: A whole range of communicable diseases and infections may be transmitted by infected food establishment personnel to other employees and to the consumer through contamination of food or food utensils.

— 4-201. Personal Cleanliness. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap or detergent and warm water before starting work, after smoking, eating, drinking, or using the toilet, before and after handling raw meat, poultry, or seafood, and as often as is necessary during work to keep them clean. (12-washed) Employees shall keep their fingernails trimmed and clean.

— REASON: The hands are particularly important as a potential vehicle of contamination of food and food-contact surfaces.

— 4-301. Clothing:

— A. Employees shall wear clean outer clothing, clean smocks or clean, full aprons that adequately cover clothing. (13-clean)

— B. Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces. Hair spray is not an effective hair restraint. (13-restraints)

— REASON: Clothing and falling hair can be direct or indirect vehicles of contamination. Consumers react negatively when employees handling food have soiled clothing. Consumers are also particularly sensitive to food contaminated with hair.

— 4-401. Employee Practices:

— A. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods. (12-practices)

— B. Employees shall consume food or drink, or use tobacco only in designated areas. Such designated areas must be located so that the eating, drinking, or tobacco use of an employee does not result in contamination of food, equipment, or utensils. (12-practices)

— REASON: Hygienic practices must be utilized by employees in keeping personally clean and in performing assigned duties, in order to maintain the integrity of food and to minimize the possibility of transmitting disease to other employees and consumers. Smoking or eating by employees in food preparation areas is prohibited because of the probability of contamination of the hands, food, and food-contact surfaces. Insanitary and unsightly personal practices such as scratching the head, placing the fingers in or about the mouth or nose, and indiscriminate and uncovered sneezing or coughing may result in food contamination, and adversely affect consumer confidence in the establishment.

#### **R70-530-5. Equipment and Utensils Materials:**

— 5-101. General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials, shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, taste, nor contribute to the contamination of food. Articles such as number ten cans, aluminum pie pans, bread wrappers, and similar articles into which food has been packaged by the manufacturer shall not be used as single service or multi-use articles. (14-15 constructed)

— 5-102. Bulk Foods. Bulk food display modules or containers shall have an attached, self-closing lid. (14-15 constructed)

— 5-103. Wood. Hard maple or equivalent nonabsorbent wood that meets the general requirements set forth in Section 5-101 of this rule may be used for cutting blocks, cutting boards, and baker's tables. Wood shall not be used as a food-contact surface under other circumstances, except for contact with raw fruits, raw vegetables, and nuts in the shell. Wood shall not be used as a food contact surface for bulk foods. (14-constructed)

— 5-104. Cutting surfaces. Cutting surfaces subject to scratching and scoring must be resurfaced so as to be easily cleaned, or be discarded when these surfaces can no longer be effectively cleaned and sanitized. (14-maintained)

— 5-105. Single-service articles. Single-service articles shall not be re-used. (26-re-use)

— REASON: Materials which are absorbent or have rough imperfect surfaces are not cleanable and will harbor filth and microorganisms.

— Food poisoning has occurred as a result of ingestion of acidic food or drink that has been in contact with equipment or utensils containing metals such as copper, cadmium, lead, and zinc, or the salts of these metals. Unsafe materials used in the manufacture of equipment and utensils may migrate into food.

— DESIGN AND FABRICATION

— 5-201. General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use, shall be made from safe materials, and shall be resistant to denting, buckling, pitting, chipping, and crazing. (14-15 designed and constructed)

— A. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is used for cooking. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers, hot oil cooking equipment, or hot oil filtering systems, such threads shall be minimized.

— B. Equipment containing bearings and gears requiring lubricants not made of safe materials shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. (14-designed and constructed) Equipment designed to receive lubrication of bearings and gears on or with-in food-contact surfaces shall be lubricated with food-grade lubricants meeting state or federal approval for such use. (41-used)

— C. Sinks and drain boards shall be sloped to drain and be self-draining. (16-designed)

— 5-202. Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

— A. Without being disassembled; or

— B. By disassembling without the use of tools; or

— C. By easy disassembling with the use of only simple tools, such as mallets, screwdrivers, or open-end wrenches which are kept near the equipment. (14-designed)

— 5-203. Cleaned in Place, CIP. Equipment intended for in-place cleaning shall be so designed and fabricated that:

— A. Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

— B. Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

— C. The system is self-draining or capable of being completely evacuated. (14-construction, designed)

— 5-204. Food product thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, (14-designed) and accurate to plus or minus two degrees F, plus or minus one degree C. (5-accurate)

— 5-205. Non-food-contact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition. (15-designed; constructed and maintained)

— 5-206. Ventilation hoods. Ventilation hoods and devices, where installed, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place. (15-designed)

— 5-207. Maintenance of equipment and utensils. All equipment and utensils shall be maintained in good repair to comply with the requirements of this rule. (14, 15-maintained)

— REASON: Food equipment and utensils which have been designed and fabricated without regard for surface characteristics,

durability, and accessibility can be difficult to clean, making build-up of food residues likely. Accumulation of food soil supports bacteria growth, contaminates fresh foods, attracts insects and rodents, causes unpleasant odors, and can be responsible for accelerated food spoilage and food borne illness. Ventilation hoods which are properly designed and maintained will minimize food contamination due to drippage.

— The special requirements for equipment with bearings and gears, and the criteria for acceptability of lubricants are intended to prevent toxic petroleum products from becoming part of food.

— Food product thermometers made of glass and filled with mercury or other fluids are prohibited because of the problem of breakage and the risk of contaminating a batch of food or vat of hot cooking oil with glass and toxic liquid.

— EQUIPMENT INSTALLATION AND LOCATION

— 5-301. General equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water has accumulated, in open stairwells, or by other sources of contamination. (14, 15-located)

— 5-302. Table-mounted equipment:

— A. Table-mounted equipment shall be installed to facilitate the cleaning of the equipment and the adjacent areas.

— B. Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a two inch, 102 mm, clearance between the table or counter. (15-installed)

— C. Equipment is portable within the meaning of constructed Section 5-302B of this rule if:

— 1. It is small and light enough to be moved easily by one person; and

— 2. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning; and

— 3. It is table-mounted; and: does not exceed 80 pounds, =36 kilograms, and is equipped with a mechanical means of safely tilting the unit for cleaning. (15-designed and constructed)

— 5-303. Floor-mounted equipment:

— A. Floor-mounted equipment, unless easily moveable, shall be:

— 1. Sealed to the floor; or

— 2. Elevated on legs to provide at least a six inch, 152 mm, clearance between the floor and equipment. (15-installed)

— B. Equipment is easily moveable if:

— 1. It is mounted on wheels or casters; and

— 2. It has no utility connection, has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning. (15-designed and constructed)

— C. Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch, 0.8 mm and, if exposed to seepage, the space shall be sealed. (15-installed)

— 5-304. Aisles and working spaces. Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-

contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks, and open-ended pallets shall be positioned to provide accessibility to working areas. (15-located)

—REASON: Food debris and litter frequently accumulate under, above around, and behind equipment. It is in these areas, especially along the floor and wall junctures, that insects and rodents find harborage, run and feed. The requirements of these sections are intended to assure that regular and effective cleaning is possible. They are also intended to assure that employees have enough space to perform their duties without inadvertently contaminating food and clean surfaces.

**R70-530-6. Cleaning, Sanitization, and Storage of Equipment and Utensils Cleaning and Sanitation:**

—6-101. Cleaning frequency:

—A. Utensils and food-contact surfaces of equipment shall be cleaned and sanitized: (22, 20-clean and sanitized)

—1. Any time meat products are not processed in the following order: raw beef, raw pork, raw poultry, raw seafood, or any time there is a regression in this processing procedure;

—2. Any time there is a change from raw to ready-to-eat foods;

—3. After any interruption of operations during which time contamination may have occurred; and

—4. After final use each working day. (7-cross contamination)

—B. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation. (22, 20-clean and sanitized)

—C. The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once each day of use, except that this shall not apply to hot oil, cooking equipment and hot oil filtering systems. The food-contact surfaces of all baking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soil. (22-clean)

—D. Non-food-contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris. (23-clean)

—E. Food establishments with bulk food sections shall have facilities or equipment conveniently available, either in a servicing area or in place to provide for proper cleaning and sanitizing of all food-contact surfaces including product modules, lids and dispensing utensils. (16-facilities)

—6-102. Wiping cloths:

—A. Cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in Section 6-103 H of this rule and used for no other purpose. (21-clean and restricted) These cloths and sponges shall be stored in the sanitizing solution between uses. (21-storage)

—B. Cloths or sponges used for cleaning non-food-contact surfaces of equipment shall be clean and rinsed as specified in Section 6-102 A of this rule and used for no other purpose. (21-clean and restricted) These cloths and sponges shall be stored in the sanitizing solution between uses. (21-stored)

—C. Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use. (26-re-use)

—6-103. Manual cleaning and sanitizing:

—A. For manual cleaning and sanitizing of equipment and utensils, a sink with three compartments shall be provided and used. Sink designed compartments shall be large enough to accommodate the immersion of most equipment and utensils, (16-designed) and each compartment of the sink shall be supplied with hot and cold potable running water. (27-hot and cold) Where immersion in sinks is impracticable (e.g., because equipment is too large), equipment and utensils shall be cleaned and sanitized manually or by pressure spray methods. (16-operated)

—B. Drain boards or easily moveable utensil tables of adequate size shall be provided for proper storage and handling of soiled utensils prior to cleaning and for cleaned utensils following sanitizing and shall be located so as not to interfere with proper use of the warewashing facilities. (16-installed and located)

—C. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove food particles and soil. (18-preflush, prescrape, presoak)

—D. The sinks shall be cleaned before use. (16-operated)

—E. When a three-compartment sink is utilized for warewashing, the operation shall be conducted in the following sequence: (16-operated)

—1. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean (19-temperature, clean) and at a concentration indicated on the manufacturer's label; and

—2. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment. (22-free) and

—3. Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in Section 6-103 H, Items 1 through 5 of this rule. (20-sanitized)

—F. For facilities in operation prior to the adoption of this rule, a sink with at least two compartments shall be provided and used. When a two compartment sink is utilized for warewashing, one of the following three methods shall be used:

—1. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean (22-clean) and at a concentration indicated on the manufacturer's label; and shall be sanitized in hot water in the second compartment for at least 30 seconds in clean hot water at a temperature of at least 170 degrees F, =77 degrees C; (20-sanitized) or

—2. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent-sanitizer solution that is kept clean and at a concentration indicated on the manufacturer's label (22-clean); and shall be sanitized in the second compartment with a solution containing that same detergent-sanitizer in accordance with Section 6-103 H, Items 2-5 of this rule. Neither equipment nor utensils are to be rinsed after sanitization. (20-sanitized)

—3. Equipment and utensils shall be thoroughly cleaned in the first compartment with a hot detergent solution that is kept clean (22-clean) and at a concentration indicated on the manufacturer's label; rinse in clean, hot water; place on racks or drainboards; and sanitize as outlined in Section 6-103-H-7 of this rule. (20-sanitized)

—G. When pressure spray methods are utilized for cleaning and sanitizing, the equipment and utensils shall be thoroughly flushed with a detergent-sanitizer solution until the article is free of visible

food particles and soil. The detergent-sanitizer shall be used in accordance with the manufacturer's instructions and shall be of the type that does not require a potable water rinse when used according to those instructions. (22-clean and 20-sanitized)

H. The food-contact surfaces of all equipment and utensils shall be sanitized by:

1. Immersion for at least 1/2 minute in clean, hot water of a temperature of at least 170 degrees F (=77 degrees C); or

2. Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75 degrees F, =24 degrees C; or

3. Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine, having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75 degrees F, =24 degrees C; or

4. Immersion for at least 1 minute in a clean solution containing at least 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75 degrees F, =24 degrees C. The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration (20-time, clean, concentration, temperature); or

5. Immersion in a clean solution containing any other chemical sanitizing agent which is safe, approved under state or federal rules or regulations, and will provide that equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 degrees F, =24 degrees C for one minute (41-used); or

6. Treatment with steam free from materials or additives other than those which may safely be used in contact with food and which are approved under state or federal rules or regulations may be used in the case of equipment too large to sanitize by immersion, but in which steam can be confined (41-used); or

7. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under Sections 6-103 H (2), (3), (4), and (5) of this rule in the case of equipment too large to sanitize by immersion. (20-concentration)

I. When hot water is used for sanitizing, the following equipment shall be provided and used:

1. An integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 degrees F, =77 degrees C (16-installed, maintained); and

2. A numerically scaled indicating thermometer, accurate to plus or minus two degrees F, one degree C, convenient to the sink for frequent checks of water temperature (17-thermometer); and

3. Utensil racks or baskets of such size and design to permit complete immersion of utensils and equipment in the hot water. (16-operated)

J. When chemicals are used for sanitization:

1. They shall not have concentrations higher than the maximum permitted under state or federal rules or regulations (41-used); and

2. A test kit or other device that measures the parts per million concentration of the solution shall be provided and used. (17-test kit)

6-104. Mechanical cleaning and sanitizing.

A. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it can be demonstrated to the regulatory authority that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. (16-installed, maintained) Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. (16-operated) Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be an approved device properly installed and maintained. (16-maintained)

B. The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4 inch IPS (Iron Pipe Size) valve shall be provided immediately upstream from the final rinse water. (17-gauge cock)

C. Machine or water line mounted numerically scaled indicating thermometers, accurate to plus or minus two degrees F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

D. Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing/warewashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines. (16-maintained)

E. Drain boards shall be provided, be self-draining, and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization (16-installed) and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. (16-located, constructed) This does not preclude the use of easily movable dish tables or carts for the storage of clean utensils following sanitization.

F. Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove food particles and soil prior to being washed in a dishwashing/warewashing machine unless a prewash cycle is a part of the dishwashing/warewashing machine operation. (18-preflushed, scraped, soaked) Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash (16-operated) and clean rinse waters and that permits free draining. (16-operated)

G. Machines, single-tank, stationary-rack, door-type machines and spray-type glass washers, using chemicals for sanitization may be used: Provided, that:

1. The temperature of the wash water shall not be less than 120 degrees F. (19-temperature)

2. The wash water shall be kept clean. (19-clean)

3. Chemicals added for sanitization purposes shall be automatically dispensed. (16-operated)

4. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration. (20-time, concentration)

5. The chemical sanitizing rinse water temperature shall be not less than 75 degrees F nor less than the temperature specified by the machine's manufacturer. (20-temperature)

— 6. Approved chemical sanitizers shall be used. (20-concentration)

— 7. A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used. (17-kit)

— H. Machines using hot water for sanitization may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperatures as indicated below:

— 1. Single-tank, stationary-rack, dual-temperature machine (20-temperature):

— Wash temperature — 150 degrees F

— Final rinse temperature — 180 degrees F

— 2. Single-tank, stationary-rack, single-temperature machine:

— Wash temperature — 165 degrees F

— Final rinse temperature — 165 degrees F

— 3. Single-tank, conveyor machine:

— Wash temperature — 160 degrees F

— Final rinse temperature — 180 degrees F

— 4. Multitank, conveyor machine:

— Wash temperature — 150 degrees F

— Pumped rinse temperature — 160 degrees F

— Final rinse temperature — 180 degrees F

— 5. Single-tank, pot, pan, and utensil washer, either stationary or moving-rack:

— Wash temperature — 140 degrees F

— Final rinse temperature — 180 degrees F

— I. All warewashing/dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. (16-maintained)

— 6-105. Drying. Unless used immediately after sanitization, all equipment and utensils shall be air dried. Towel drying shall not be permitted. (24-handling)

— 6-106. Food establishments without proper ware-washing facilities. Food establishments that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables which have not been processed. (16-facilities)

— REASON. Regular, effective cleaning and sanitization of equipment, utensils, and work surfaces minimizes the probability of food contamination, accelerated food spoilage, and the transmission of disease organisms or toxins to employees and consumers. Effective cleaning removes soil and prevents the accumulation of food residues that may decompose or support the rapid growth of food poisoning organisms or production of toxins. Effective sanitization procedures destroy organisms of public health importance that may be present on wiping cloths, food equipment or utensils after cleaning, or which have been introduced into the rinse solution.

— The requirements of these sections are intended to assure that all facilities and testing equipment necessary for effective cleaning and sanitization are provided. They are also intended to provide operating procedures which are known to be safe and effective.

— EQUIPMENT AND UTENSIL HANDLING AND STORAGE

— 6-201. Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. (24-handling)

— 6-202. Storage.

— A. Cleaned and sanitized utensils and equipment shall be stored at least six inches, 152 mm above the floor in a clean, dry location in a way that protects them from splash, dust, and other means of contamination. The food-contact surfaces of fixed equipment shall also be protected from contamination. (24-storage) Equipment and utensils shall not be placed under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated. (14-located)

— B. Utensils shall be air dried before being stored or storage shall be stored in a self-draining position. (24-handling, storage)

— C. Stored utensils shall be covered or inverted wherever practical. (24-storage)

— 6-203. Single-service articles.

— A. Single-service articles shall be stored in closed cartons or containers at least six inches, 152 mm, above the floor or on easily movable dollies, skids, racks, or open-ended pallets. Such storage shall protect the articles from contamination and shall not be located under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water has accumulated. (25-storage)

— B. Single-service articles, including take home containers for customer self-service of bulk foods, shall be handled in a manner that prevents contamination of surfaces that may come in contact with food. (25-handling)

— 6-204. Prohibited storage areas. Food equipment, utensils, or single service articles shall not be stored in locker rooms, toilet rooms or their vestibules, garbage rooms, or mechanical rooms. (24, 25-storage)

— REASON: Single-service articles, and equipment and multi-use utensils which have been properly cleaned and sanitized, can become contaminated in a variety of ways prior to their intended use. Contamination can be caused by food debris, toxic materials, litter, dust, and other materials. The contamination is often related to unhygienic employee practices, unacceptable high risk storage locations, improper construction of storage facilities, and poorly designed and managed consumer self-service operations. The requirements of these sections are provided to assure that clean items are protected during necessary handling and while being stored:

#### **R70-530-7. Sanitary Facilities and Controls Water Supply.**

— 7-101. General. Sufficient potable water for the needs of the food establishment shall be provided from a source which is rated approved or provisionally approved by the Utah State Health Department. (27-source, sufficient)

— 7-102. Water delivery. All potable water not provided to the food establishment directly from the source by pipe shall be delivered in a bulk water transport system and shall be transferred to a closed water system. Both of these systems shall be constructed, maintained, and operated according to law. (27-source)

— 7-103. Water under pressure. All equipment and utensil washing sinks, food preparation sinks, hand sinks, and janitorial sinks shall be supplied with hot and cold water under pressure. (27-pressure, temperature)

— 7-104. Steam. Steam used in contact with food or food-contact surfaces shall be free from any material or additives other than those which may be safely used in contact with food and which are approved under state or federal rules or regulations. (41-used)

— ~~REASON: Water and steam may serve as vehicles of contamination to food or food-contact surfaces. Pressure and temperature of water and steam determine effectiveness for cleaning, sanitization, and other establishment operations.~~

— ~~The requirements in these sections are intended to assure that sufficient volumes of water and steam are provided from supplies known to be safe, and through distribution systems which are protected. The requirements are also intended to assure that fixtures and equipment designed to use water will be supplied with water at necessary pressures and temperatures.~~

— ~~7-201. Sewage. All sewage including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed, maintained, and operated according to state and local health department requirements. Nonwater-carried sewage disposal facilities are prohibited, except as permitted by the regulatory authority. (28-disposal)~~

— ~~REASON: Many diseases can be transmitted from one person to another through fecal contamination of food and water. Proper disposal of human wastes greatly reduces the risk of fecal contamination. The requirements of this section are intended to assure that wastes will not contaminate ground surfaces and water supplies; be accessible to children, or to pets, rodents, and insects; pollute surface waters; or otherwise create an odorous and unsightly nuisance.~~

— ~~PLUMBING~~

— ~~7-301. General. Plumbing shall be sized, installed, and maintained according to Utah Plumbing Code R449-100. (29-installed, maintained) There shall be no cross-connection between the potable water supply and any nonpotable or questionable water supply. (30-cross-connect)~~

— ~~7-302. Nonpotable water system. A nonpotable water system is permitted for air conditioning, equipment cooling, and fire protection, and shall be installed according to Utah Plumbing Code R449-100. (29-installed) Nonpotable water shall not directly or indirectly contact food or equipment or utensils that contact food. (30-cross-connect)~~

— ~~The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water. (29-installed)~~

— ~~7-303. Backflow. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment where an air gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. No hose shall be attached to a faucet that is not equipped with a back siphonage prevention device. (30-backflow, siphonage)~~

— ~~7-304. Grease traps. Grease traps, if used, shall be located to be easily accessible for cleaning. (29-installed)~~

— ~~7-305. Garbage grinders. Garbage grinders, if used, shall be installed and maintained according to law. (29-installed, maintained)~~

— ~~7-306. Drains. Culinary sinks used for the washing, soaking, or preparing of food shall be indirectly drained. (30-siphonage, backflow)~~

— ~~REASON: Water and waste lines that are inconveniently located, under-designed, or in disrepair can make necessary store operations either difficult or impossible. Improper plumbing systems have a long history of being implicated in illness outbreaks~~

involving toxic chemicals and pathogenic organisms. They require continuous attention since piping systems and equipment and fixtures designed to use water are continually being extended, altered, or replaced.

— ~~The requirements of these sections are intended to assure that plumbing is designed and installed so that equipment and facilities requiring water will have sufficient volume and pressure to properly perform their functions. Required measures also are intended to protect potable water systems fixtures, and equipment from contamination caused by backflow. The requirement that grease traps shall be accessible is based on the need for frequent cleaning.~~

— ~~TOILET FACILITIES~~

— ~~7-401. Toilet installation. Toilet facilities shall be installed and of a number required by Utah Plumbing Code R449-100. Toilet accessible facilities shall be conveniently located, and shall be accessible to employees at all times. (31-installed, #, convenient, accessible)~~

— ~~7-402. Toilet design. Toilets and urinals shall be designed to be easily cleanable. (31-designed)~~

— ~~7-403. Toilet rooms. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors, except for louvers that may be necessary for ventilation systems. Toilet rooms shall not open directly into a food processing area. (32-designed)~~

— ~~7-404. Toilet facility maintenance. Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. (32-clean, repair, tissue) Easily cleanable receptacles shall be provided for waste materials. (15-constructed) Toilet rooms used by women shall have at least one covered waste receptacle. (32-covered)~~

— ~~REASON: Toilet facilities are necessary for the proper disposal of human waste. Fecal waste has been found to be a prime source of pathogenic organisms of importance in the spread of enteric diseases from one person to another. The cleanliness of toilet facilities can affect the attitudes and work habits of employees, and can influence the opinion of patrons about conditions throughout the establishment.~~

— ~~The requirements of these sections are intended to assure that properly designed and conveniently accessible toilet facilities are provided and that they are kept in good repair, clean, and properly supplied. Vestibules on toilet rooms help contain odors and bacteriological contaminants to the rest room.~~

— ~~HANDWASHING FACILITIES~~

— ~~7-501. Handwashing facility installation. Handwashing facilities shall be installed according to Utah Plumbing Code R449-100, shall be at least one and not less than the number required by the Utah State Plumbing Code. (31-installed, number) There shall be a handwashing facility in all food preparation areas. Handwashing facilities shall be accessible to employees at all times. Handwashing facilities shall also be located in or immediately adjacent to toilet rooms or their vestibules. (31-convenient) Sinks used for food preparation or for ware-washing shall not be used for washing of hands or for any other purpose. (12-practice)~~

— ~~7-502. Handwashing facility faucets. Each handwashing facility shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. (27-hot, cold) Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need~~

to reactivate the faucet. Steam mixing valves are prohibited at handwashing facilities. (31-designed)

— 7-503. Handwashing supplies. A supply of hand-cleansing soap or detergent shall be available at each handwashing facility. (32-cleanser, towels, devices) A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. (12-practices) If disposable towels are used, easily cleanable waste receptacles (15-constructed) shall be conveniently located near the handwashing facilities. (32-receptacle)

— 7-504. Handwashing facility maintenance. Handwashing facilities, soap or detergent dispensers, hand-drying devices, and all related facilities shall be kept clean and in good repair. (32-clean, repair)

— REASON: Hands are probably the most common vehicle for the transmission of contamination to food and food-contact surfaces. Hands can become soiled with a variety of contaminants during routine food establishment operations. Some employees are unlikely to wash their hands unless properly equipped handwashing facilities are accessible in the immediate work area. Handwashing facilities which are improperly located may often be blocked off by portable equipment or stacked full of soiled utensils or a variety of other items rendering them unavailable for regular employee use. Sinks used for food preparation and warewashing can become vehicles of contamination if indiscreetly used as handwashing facilities by employees returning from the toilet or from duties which have contaminated their hands. Common towels are not permitted as they are a potential source of contamination to the hands. Steam mixing valves are prohibited on handwashing facilities because of the risk of scalding.

— The requirements of these sections are intended to assure that there are sufficient, convenient, properly equipped and located handwashing facilities in the establishment for employee use.

#### — GARBAGE AND REFUSE

— 7-601. Containers.

— A. Garbage and refuse shall be held in durable, easily cleanable, insect-resistant and rodent-resistant containers that do not leak and do not absorb liquids. (15-constructed) Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the food establishment. (33-resistant-outside)

— B. Containers used in food preparation and utensil washing areas shall be kept covered during nonworking hours and after they are filled. (33-covered)

— C. Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, (15-constructed) and shall be kept covered when not in actual use. (33-covered) In containers designed with drains, drain plugs shall be in place at all times, except during cleaning. (33-resistant)

— D. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates. (33-number)

— E. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. (33-clean, outdoor use) Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. (23-clean, indoor use) Suitable facilities, detergent, and hot water or steam, shall be provided and used for

cleaning containers. (27-water) Liquid waste from compacting or cleaning operations shall be disposed of as sewage. (28-disposed) — 7-602. Storage.

— A. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of non-rodent resistant plastic containers, unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers. (33-resistant)

— B. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, (36, 37-constructed) shall be kept clean, shall be insect and rodent resistant, (35-protected) and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. (33-frequency)

— C. Outside storage areas or enclosures, if used, shall be kept clean (34-clean) and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters, and compactor systems located outside, shall be stored on or above a smooth surface of nonabsorbent material, such as concrete or machine-laid asphalt, (34-constructed, clean) that is kept clean and maintained in good repair.

— 7-603. Disposal.

— A. Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents. (33-frequency)

— B. Where garbage or refuse is burned on the premises, it shall be done by controlled incineration in accordance with state and local requirements. Areas around incineration units shall be kept clean and orderly. (34-incineration, clean, outside)

— REASON: Proper storage and disposal of garbage and refuse are necessary to prevent the attracting, harboring, or breeding of insects, rodents, and other animals. Improperly handled garbage creates obnoxious odors and other nuisance conditions, makes housekeeping and groundskeeping difficult, and can become a source of contamination to food, equipment and utensils.

#### — INSECT AND RODENT CONTROL

— 7-701. General. Effective measures shall be utilized to minimize the entry, presence, and propagation of rodents, flies, cockroaches, or other insects. (35-presence) The premises shall be maintained in a condition that prevents the harborage or feeding of insects or rodents. (42-maintained)

— 7-702. Openings. Openings to the outside shall be effectively protected against the entry of rodents. Outside openings shall be protected against the entry of insects by tight-fitting, self-closing doors; closed windows; screening; controlled air currents; or other means. Screen doors shall be self-closing, and screens for windows, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall be not less than 16 mesh to the inch. (35-protected)

— REASON: Insects and rodents are capable of transmitting disease to man by contaminating food and food-contact surfaces.

— Because insects and rodents need food, water, and shelter in order to survive, requirements in these sections are intended to block their access into the food establishment and to eliminate

harborage and feeding opportunities, both in the food establishment and on the premises.

**R70-530-8. Construction and Maintenance of Physical Facilities Floors:**

— 8-101. Floor construction:

— A. Floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight-fitting wood impregnated with plastic, (36-constructed) and shall be maintained in good repair. (36-repair) Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons:

— B. Floors which are water flushed or which receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with properly installed trapped drains. (29-installed) Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile, or similar materials and shall be graded to drain. (36-constructed, drained)

— C. In all establishments utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials, or where water flush cleaning methods are used, the junctures between walls and floors shall be covered and sealed. In all other cases, the juncture between walls and floors shall be covered so as not to present an open seam of more than 1/32 inch, 0.8 mm. (36-constructed)

— 8-102. Floor carpeting. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting shall not be used in food preparation and warewashing areas, in food storage areas, or in toilet room areas where urinals or fixtures are located. (36-covering)

— 8-103. Prohibited floor covering. Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings, however, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors. (36-covering)

— 8-104. Mats and duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained in good repair. (36-constructed)

— 8-105. Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility service lines and pipes on the floor is prohibited, and if they are improperly installed in new construction or remodeling, immediate corrective action shall be required. (36-installation)

— REASON: Floors that are of smooth durable construction and nonabsorbent are more easily cleaned:

— Special materials, sealing, coving, and grading to drains are required for floors which are cleaned by spraying or flushing so that liquid wastes are quickly carried away and pooling and other nuisances and hazards are avoided:

— The requirements and restrictions regarding floor coverings, utility lines, and floor-wall junctures are intended to assure that regular and effective cleaning is possible and that insect harborage

is minimized. Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, and similar materials are prohibited as floor coverings because they may:

- contribute to dust-borne contamination;
- create a growth medium for microorganisms when combined with food scraps and fluids; and
- make floor cleaning more difficult and less likely.

**WALLS AND CEILING**

— 8-201. Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair. (37-repair)

— 8-202. Construction. The walls, wall coverings, and ceilings of walk-in refrigeration units, food preparation areas (including areas used for storing opened or dusty food products), warewashing areas, and toilet rooms and their vestibules shall be smooth, nonabsorbent, light colored, durable under conditions of use, and easily cleanable. Concrete or pumice blocks and bricks used for interior wall construction in these locations shall be finished and sealed to provide a smooth easily cleanable surface. (37-constructed)

— 8-203. Exposed construction. Studs, joists, and rafters shall not be exposed in those areas listed in Section 8-202 of this rule. If exposed in other rooms or areas, they shall be finished to provide a cleanable surface. (37-surfaces)

— 8-204. Utility line installation. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in Section 8-202 of this rule. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings, and if they are improperly installed during new construction or remodeling, immediate corrective action shall be required. (37-constructed; installation)

— 8-205. Attachments. Light fixtures, vent covers, wall mounted fans, decorative materials, and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair. (37-constructed, repair)

— 8-206. Covering material installation. Wall and ceiling covering materials shall be attached and sealed in a manner to be easily cleanable. (37-constructed)

— REASON: Walls and ceilings that are of smooth construction, nonabsorbent, and in good repair can be easily and effectively cleaned. The special requirements provided for the installation of utility lines, attachment of accessories, and application of covering materials, are intended to assure that the cleanability of these surfaces is retained:

**CLEANING PHYSICAL FACILITIES**

— 8-301. General. Cleaning of floors, walls, and ceilings shall be done as often as necessary, but preferably during periods when the least amount of food is exposed, such as after closing. (36, 37-clean) Only dustless methods of cleaning floors, walls, and ceilings shall be used, such as vacuum cleaning, wet cleaning, treated dust mops, or the use of dust-arresting sweeping compounds with brooms. (36, 37-methods) Floors, mats, duckboards, walls, ceilings, and attachments (e.g., light fixtures, vent covers, wall mounted fans, and similar equipment), and decorative materials (e.g., signs and advertising materials) shall be kept clean. (36, 37-clean)

— 8-302. Service sinks. At least one service sink or curbed cleaning facility with a floor drain shall be provided and used for

the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. (29-installed) Handwashing or warewashing facilities, or food preparation sinks shall not be used for this purpose. (12-practices)

—REASON: Cleanliness of the food establishment is important to minimize attractants for insects and rodents, aid in preventing the contamination of food and equipment, and prevent nuisance conditions. A clean and orderly food establishment is also conducive to positive employee attitudes which can lead to increased attention to personal hygiene and improved food handling practices. The availability of appropriate service facilities and the use of specified cleaning procedures are important in order to preclude avoidable contamination of food and equipment.

—LIGHTING

—8-401. General:

—A. Permanently fixed artificial light sources shall be installed to provide at least 20 foot candles, 323 lux, of light on all food preparation surfaces and at warewashing work levels. (38-required)

—B. Permanently fixed artificial light sources shall be installed to provide, at a distance of 30 inches, 762 mm, from the floor. (38-required)

—1. At least 20 foot candles, 215 lux, of light in sales areas, utensil and equipment storage areas, and in handwashing and toilet areas; and

—2. At least ten foot candles, 108 lux, of light in walk-in refrigeration units, dry food storage areas, and in all other areas. (38-required)

—8-402. Protective shielding:

—A. Lamps located over or within food storage, food preparation and food display facilities, and facilities where utensils and equipment are cleaned and stored shall be shielded, coated or otherwise shatter resistant. (38-shielded)

—B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. (38-shielded)

—REASON: Properly distributed light makes the need for cleaning apparent by making accumulations of soil conspicuous. Lighting levels are specified so that sufficient light is available to: read labels, discern the color of substances; identify toxic materials; recognize the condition of food, utensils and supplies; and facilitate general establishment operations and clean-up.

Shielding of light bulbs and fluorescent tubes protects employees, food, and equipment from glass fragments, if breakage occurs. Additionally, shielding helps prevent breakage.

—8-501. Ventilation. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to state and local requirements and, when vented to the outside, shall not create a harmful or unlawful discharge. (39-required) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials. (37-repair)

—REASON: Ventilation can be important in protecting food from contamination, making effective cleaning possible, preventing hazards and nuisances, and assuring the safety of inside air for employees and patrons:

—Ventilation protects food from contamination by controlling condensation. Moisture from condensation is conducive to mold and bacterial growth. Drillage from condensation and from

accumulations of fats and oils can carry contaminants to food or food-contact surfaces.

—When mechanical ventilation is necessary, a properly designed, installed, and operated system assures that: soiling of walls, ceilings, and other equipment is minimized; obnoxious odors or toxic fumes are effectively removed; the system itself is readily cleanable; and no hazards or nuisances involving accumulation of fats, oils and similar wastes will be created.

—Special consideration is given to intake ducts used for make-up air in the establishment because they can be an important source of airborne contaminants if either improperly designed or poorly located with respect to equipment placement or operating modes.

—DRESSING ROOMS AND LOCKER AREA

—8-601. Dressing rooms and areas. Employees shall not process food in street clothes unless clean smocks or full aprons that adequately cover clothing are used. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. (40-located, provided, used) These designated rooms or areas shall not be used for food preparation, food storage, food display, warewashing, (8-preparation, storage) or storage of utensils and equipment. (24-storage)

—8-602. Locker areas. Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may only be located in the designated dressing rooms or areas or, in food storage rooms or areas containing only completely packaged food or packaged single-service articles. (40-provided, used, located)

—REASON: Street clothing and personal belongings can contaminate food, food equipment, and food preparation surfaces. Lockers or suitable facilities are required in order to provide for the proper storage of personal belongings such as purses, coats, shoes, and personal medications.

—POISONOUS OR TOXIC MATERIALS

—8-701. Materials permitted. Only those poisonous or toxic materials necessary and intended for the maintenance of the establishment, including the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in food establishments, (41-necessary) except those items being stored or displayed for retail sale as described in Section 8-705 of this rule:

—8-702. Labeling of materials. Containers of poisonous or toxic materials necessary for operational maintenance of the establishment shall be prominently and distinctly labeled in accordance with state and federal requirements. Small working containers of bulk cleaning agents shall be individually labeled for easy identification of contents. (41-labeled)

—8-703. Storage of materials. Poisonous or toxic materials necessary for the maintenance of the establishment consist of the following two categories:

—A. Insecticides and rodenticides;

—B. Detergents, sanitizers, related cleaning or drying agents; and caustics, acids, polishes, and other chemicals.

—Materials in each of these two categories shall be stored and located to be physically separated from each other; shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose; and to preclude potential contamination, shall not be stored above or intermingled with food, food equipment, utensils, or single-service articles, except that this latter requirement does not prohibit the convenient availability of

detergents, detergent sanitizers, or sanitizers at warewashing facilities. (41-stored)

— 8-704. Use of materials:

A. Sanitizers, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees or other persons. (41-used)

B. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way other than in full compliance with the manufacturer's labeling. (41-used)

— 8-705. Storage and display of materials for Retail sale. Poisonous or toxic materials stored or displayed for retail sale shall be separated from food and single-service articles by spacing, partitioning, or dividers. These materials shall not be stored or displayed above food or single-service articles. (41-stored)

— 8-706. First aid supplies and personal medications. Food establishment employee first-aid supplies and personal medications shall be stored in a way that prevents them from contaminating food and food-contact surfaces. (41-stored)

— REASON: The accidental contamination of food or food-contact surfaces with pesticides, toxic cleaning compounds, other poisons, or medicinals can cause serious illness.

The requirements of these sections are intended to assure that only those toxic materials which are necessary to the food establishments' operation are present, and that they are clearly labeled, safely stored, and properly used.

— PREMISES

— 8-801. General:

A. Food establishments and all parts of the property used in connection with operations of the establishment shall be reasonably free of litter and articles not essential to the operation or maintenance of the establishment. (42-litter, articles)

B. The walking and driving surfaces of all exterior areas of food establishments shall be surfaced with concrete, asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage. (42-maintained)

C. The traffic of unnecessary persons through the food preparation and warewashing areas is prohibited. (42-authorized personnel)

— 8-802. Living areas:

A. No operation of a food establishment shall be conducted in any room used as living or sleeping quarters:

B. An establishment handling only packaged food products may be connected to living or sleeping quarters as long as they are separated by complete partitioning and solid, self-closing doors.

C. No establishment processing, preparing, packaging, or manufacturing food products shall have access to living or sleeping quarters through a door, window or other entrance. (43-separation)

— 8-803. Laundry facilities:

A. If provided, laundry facilities in a food establishment shall be restricted to the washing and drying of linens and work clothes used in the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used. (43-laundry)

B. Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles. (43-laundry)

— 8-804. Linens and work clothes storage:

A. Clean work clothes and linens, including articles such as wiping cloths, shall be stored in a clean place and protected from contamination until used. (44-stored)

B. Soiled work clothes and linens, including articles such as wiping cloths, shall be kept in nonabsorbent containers or washable laundry bags until removed for laundering and shall be stored to prevent contamination of food, food equipment and utensils, and single-service articles. (44-stored)

— 8-805. Cleaning equipment storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be maintained in good repair and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location. Mop buckets shall be emptied after use, and mops shall be reasonably clean and hung to dry. (42-stored)

— 8-806. Animals:

A. Live animals shall be excluded from within the food establishment operational areas and from immediately adjacent areas inside the establishment under the control of the permit holder. (35-animals) This exclusion does not apply to edible fish, crustacea, shellfish, or fish in aquariums.

— Live or dead fish bait shall be stored separately from food or food products:

— Patrol dogs accompanying security or police officers shall be permitted in offices, storage areas and outside the establishment premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Guide dogs accompanying blind persons shall be permitted in sales areas.

B. While on duty, persons employed in the food operational areas of an establishment shall not care for or handle any pets, or patrol/sentry dogs. (12-practices)

— REASON: The presence of unnecessary articles, including equipment which is no longer used, makes regular and effective cleaning more difficult and less likely. It can also provide harborage for insects and rodents.

The requirements concerning outside areas are intended to prevent the creation of conditions suitable for insect and rodent feeding, breeding, and harborage; and to minimize nuisances involving dust and the pooling of water. The requirements involving animals, separation of establishment operations from living or sleeping quarters, laundry operations and facilities, and the storage of linens and cleaning equipment are all intended to minimize the possibility of disease transmission to employees and consumers through direct or indirect contamination of food and food-contact surfaces.

#### **R70-530-9. Special Requirements:**

— 9-101. General. In addition to all other applicable requirements of this rule, the following requirements shall pertain to the specific processors contained in this chapter:

— RABBIT PROCESSORS:

— 9-201. Separate Rooms. The killing and skinning area shall be separated by a self-closing door from the packaging and processing rooms. (37-constructed)

— 9-202. Pelts. Pelts shall not be stored in the slaughtering or packaging rooms, or in rooms used for storing equipment or supplies. (42-unnecessary)

— 9-203. Hutches and Rearing Pens:

— A. If hutches or rearing pens are located on the same premises as the slaughtering and processing building, they must be so made and maintained as to constitute a suitable operation free of fly breeding and manure storing areas that may constitute a nuisance or health hazard. (36, 37-constructed, maintained)

— B. Hutches and rearing pens shall not be located in the same building as the slaughtering and packaging rooms, or other food establishment operations. (42-unnecessary articles)

**CANNERIES**

— 9-301. Low Acid Foods. All low acid canning regulations adopted under authority of the Federal Food, Drug and Cosmetic Act are the low acid canning rule in this state. This specifically refers to the Code of Federal Regulations, Title 21, Part 113 and Part 108, Subpart B, Chapter 108.35, and generally refers to any other cross referenced or otherwise pertinent regulations in the Code of Federal Regulations. Where state rules conflict or are more stringent than the federal requirements, the state rules shall have precedence.

— 9-302. Acidified Foods. All acidified foods regulations adopted under authority of the Federal Food, Drug and Cosmetic Act are the acidified food rules of this state. This specifically refers to CFR Title 21, Part 114, and Title 21, Part 108, Subpart B, Chapter 108.25 and generally refers to any other cross referenced or otherwise pertinent regulations in the Code of Federal Regulations. Where state rules conflict or are more stringent than the federal requirements, the state rules shall have precedence.

— 9-303. Other canned or thermally processed foods. All other foods not covered under 9-201 or 9-202 which are to be packaged into hermetically sealed containers shall be mechanically capped or sealed. (08-preparation) However, this does not pertain to home canned foods which are for the owners and his families' personal use.

**BOTTLING PLANTS**

— 9-401. Bottled Water. Bottled water shall meet the standards for quality, sanitation and plant construction as outlined in the Code of Federal Regulations, Title 21, Parts 129, and 165. Where state rules are more stringent than the federal requirements, the state rules shall have precedence.

— 9-402. Capping. All bottled water operations shall use mechanical capping or closure devices.

— 9-403. Caustics. All bottling plants using caustics for the cleaning of multi-use containers shall use the caustics in conformance with the manufacturer's requirements, or according to the chart listed below, and shall have available and use a caustic test kit to determine caustic strength. (41-used)

TABLE  
(Based on NSDA specifications for beverage bottles)

|                 |   | Temperature, degrees           |      |      |      |      |      |      |
|-----------------|---|--------------------------------|------|------|------|------|------|------|
|                 |   | F 170                          | 160  | 150  | 140  | 130  | 120  | 110  |
| Time in minutes | C | 77                             | 71   | 66   | 60   | 54   | 49   | 43   |
|                 |   | Concentration of NaOH, percent |      |      |      |      |      |      |
| 3               |   | 0.57                           | 0.86 | 1.28 | 1.91 | 2.86 | 4.27 | 6.39 |
| 5               |   | 0.43                           | 0.64 | 0.96 | 1.43 | 2.16 | 3.22 | 4.80 |
| 7               |   | 0.36                           | 0.53 | 0.80 | 1.19 | 1.78 | 2.66 | 3.98 |

— 9-501. Ice Plants. Ice plants using water for the manufacturing of ice must obtain their water from an approved source. If the water is obtained from a community water system as

defined in R309-101 through 113, no additional testing is necessary. If the water is obtained from other than a community water system, it must meet R309-101 through 113 standards for a non-community water system. (1-source) This would include an initial test for inorganic chemicals, turbidity and microbiological standards. After the initial test, it would require testing for:

— A. Microbiological standards once in each calendar quarter of the year in which the plant operates January-March, April-June, July-September, October-December.

— B. Turbidity, sulfate and nitrate once each three years.

— 9-601. Produce Stands. Produce stands shall be exempt from these requirements as long as they meet the following requirements:

— A. They are a non-permanent structure, operating on a seasonal basis.

— B. They do not cut, process, prepare or package produce products for sale.

— C. They handle only raw, unprocessed fruits and vegetables.

— D. They have access to toilet and handwashing facilities. (31-accessible)

— E. All food products are stored at least six inches off the ground. (08-stored)

— F. The surroundings are maintained clean and free of litter and garbage. (42-free of litter)

— 9-701. Game Processors. Retail meat establishments processing game shall meet the following requirements:

— A. Separate coolers shall be provided for game animals, and unpackaged, inspected meat products.

— B. Game animals shall not be processed at the same time as inspected meat, or other food products.

— C. After the completion of processing game animals, all equipment and utensils must be completely cleaned and sanitized prior to processing any inspected meat products or other food products.

**R70-530-10. Compliance Procedures Inspections:**

— 10-101. Inspection frequency:

— Inspections of food establishments shall be performed as often as necessary for the efficient and effective enforcement of this rule.

— 10-102. Access:

— Representatives of the regulatory authority, after proper identification, shall be permitted to enter any food establishment at any reasonable time for the purpose of making inspections or collecting samples to determine compliance with this rule. The representatives shall, upon request, be permitted to examine records maintained in the food establishment (or other location) to obtain information pertaining to the source of food and supplies in the establishment when deemed necessary for the enforcement of this rule.

— 10-103. Report of inspections:

— Whenever an inspection is made of a food establishment, the findings shall be recorded on the Food Establishment inspection form. The inspection report form shall summarize the requirements of this rule. Inspection remarks shall be written to reference the item violated. A copy of the completed inspection report form shall be given to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form constitutes an official notice of inspection findings. It is a public document that shall be made available for public disclosure to any person who requests it according to state requirements.

~~10-104. Correction of violations.~~

~~A. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:~~

~~1. If an imminent health hazard exists, such as may be created by an extended loss of water supply, an extended power outage, or a sewage back-up into the establishment, the establishment shall immediately cease affected food establishment operations. Such operations shall not be resumed until authorized by the regulatory authority.~~

~~2. When the facility is not meeting minimum sanitation requirements, the establishment shall initiate corrective action on all identified violations within 72 hours or as stated. One or more reinspections will be conducted at reasonable time intervals to assure correction.~~

~~B. Failure to comply with Sections 10-104(A)(1) and 10-104(A)(2) may result in additional regulatory action against the establishment.~~

~~10-201. Submission of plans.~~

~~Before the construction or major remodeling of a food establishment, and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, major remodeling, or conversion shall be submitted to the regulatory authority for review and approval. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall treat such plans and specifications as confidential or trade secret information in accordance with state law and shall approve the plans and specifications, if they meet the requirements of this rule. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority. Addition of a bulk food section would require a plan review and a facility which meets minimum requirements of this rule.~~

~~10-202. Preoperational inspection.~~

~~Whenever plans and specifications are required by Section 10-301 of this rule, the regulatory authority shall inspect the food establishment prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of this rule.~~

~~Procedure When Infection is Suspected~~

~~10-301. General.~~

~~When the regulatory authority has reasonable cause to suspect possible disease transmission from any food establishment employee, it may secure a morbidity history of the suspected employee, or make any other investigation as indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:~~

~~A. The immediate exclusion of the employee from employment in food establishments;~~

~~B. The immediate closing of the food establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;~~

~~C. Restriction of the employee's services to some area of the establishment where there could be no danger of transmitting disease;~~

~~D. Adequate medical and laboratory examination of the employee, of other employees, and of the body discharges of such employees;~~

~~E. Investigation of employee by the Utah State Health Department or local health department.~~

**~~R70-530-11. Enactment Provisions.~~**

~~11-101. Captions.~~

~~Sections and other captions are part of this rule.~~

~~11-102. Exceptions.~~

~~A. Building facilities and equipment in use before the effective date of this rule and which do not meet fully all of the design and fabrication requirements of this rule, shall be acceptable if they are in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces, if any, are constructed of safe materials.~~

~~B. New building facilities and new equipment for which contractual obligations are incurred before the effective date of this rule, and which do not fully meet all the design and fabrication requirements of this rule, shall be acceptable if they are capable of being maintained in a sanitary condition and the food-contact surfaces, if any, are constructed of safe materials.~~

~~11-103. Separability.~~

~~If any provision or application of any provision of this rule is held invalid, that invalidity shall not affect other provisions or applications of this rule.~~

**~~KEY: inspections~~**

**~~February 15, 1997~~**

**~~4-5-17]~~**

**~~R70-530. Food Protection.~~**

**~~R70-530-1. Authority and Purpose.~~**

~~(1) Authority.~~

~~Promulgated under the authority of the Section 4-5-17.~~

~~(2) Purpose.~~

~~This rule shall be liberally construed and applied to promote its underlying purpose of safeguarding public health and providing to consumers food that is safe, unadulterated, and honestly presented.~~

~~(3) Scope.~~

~~This rule establishes definitions; sets standards for management and personnel, food operations, equipment, and facilities; and provides for food establishment plan review, inspection, and employee restriction. It shall be used to regulate bakeries, grocery and convenience stores, meat markets, food and grain processors, warehouses and any other establishment meeting the definition of a food establishment.~~

~~(4) Adopted by Reference.~~

~~The division adopts the food standards, labeling requirements and procedures as specified in 21 CFR, 1 through 200, April 1, 1997 edition, 40 CFR 185, 1997 edition, and 9 CFR 200 to End, 1997 edition, which are incorporated by reference within this rule.~~

**~~R70-530-2. Definitions.~~**

~~Definitions. Statement of Application and Listing of Terms.~~

~~The following definitions apply in the interpretation and application of this rule:~~

~~(1) Additive.~~

~~(a) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(s) and 21 CFR 170.~~

(b) "Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(t) and 21 CFR 70.

(2) "Adulterated" has the meaning stated in the Wholesome Food Act, Section 4-5-7.

(3) "Approved" means acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(4) "AW or  $A_w$ " means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol  $a_w$ .

(5) "Beverage" means a liquid for drinking, including water.

(6) "Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

(7) "Bulk food" means unpackaged processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn. For the purpose of this interpretation, the term does not include unprocessed fresh fruits, unprocessed fresh vegetables, nuts in the shell, salad bars, and potentially hazardous foods.

(8) "Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

(9) CIP.

(a) "CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize an enclosed beverage processing system.

(b) "CIP" does not include the cleaning of equipment such as band saws, slicers or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(10) "CFR" means Code of Federal Regulations which is a compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

(a) Citations in this Code refer sequentially to the title, part, and section number, such as 21 CFR 178.1010 refers to Title 21 Part 178, Section 1010.

(b) The CFR is published annually by the U.S. Government Printing Office; and

(c) Contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, and EPA rules in 40 CFR.

(11) Comminuted.

(a) "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.

(b) "Comminuted" includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and in a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.

(12) "Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative organism and epidemiological analysis implicates the food as the source of the illness.

(13) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity

of an operator of a food establishment or food processing plant, and does not offer the food for resale.

(14) "Corrosion-resistant materials" means a material that maintains acceptable cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(15) Critical control point.

(a) "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

(b) "Critical control point" is an operation, practice, procedure, process, location, or step of an operation where a preventive or control measure can be exercised that will eliminate, prevent or minimize a hazard(s) that has occurred prior to this point.

(16) "Critical item" means a provision of this rule that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard. Critical items are identified in the rule with an \* (asterisk).

(17) "Critical Limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(18) Drinking Water.

(a) "Drinking Water" means water that meets 40 CFR Part 141 National Primary Drinking Water Regulations.

(b) "Drinking Water" is traditionally known as "potable water".

(c) "Drinking Water" includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water", "mop water", "rainwater", "wastewater", and "nondrinking" water.

(19) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(20) Easily Cleanable.

(a) "Easily cleanable" means a characteristic of a surface that:

(i) Allows effective removal of soil by normal cleaning methods;

(ii) Is dependent on the material, design, construction, and installation of the surface; and

(iii) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(b) "Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in Subsection (a) of this definition to different situations in which varying degrees of cleanability are required such as:

(i) The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables; or

(ii) The need for a different degree of cleanability for a utilitarian attachment or accessory in the production area as opposed to a decorative attachment or accessory.

(21) "Easily movable" means:

(a) Weighing 14 kg (30 pounds) or less; mounted on casters, gliders, or rollers; or provided with a mechanical means requiring no more than 14 kg (30 pounds) of force to safely tilt a unit of equipment for cleaning; and

(b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

(22) "Employee" means the person in charge, person having supervisor or manager, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

(23) "EPA" means the U.S. Environmental Protection Agency.

(24) Equipment.

(a) "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

(b) "Equipment" does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

(25) Fish.

(a) "Fish" means fresh or saltwater finfish, crustaceans and other forms of aquatic life, including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals, other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

(b) "Fish" includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(26) "Food" means a raw, cooked, or processed edible substance, water, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(27) Foodborne Disease Outbreak.

(a) "Foodborne disease outbreak" means an incident, except as specified in Subsection (b) of this definition, in which:

(i) 2 or more persons experience a similar illness after ingestion of a common food; and

(ii) Epidemiological analysis implicates the food as the source of the illness.

(b) "Foodborne disease outbreak" includes a single case of illness such as 1 person ill from botulism or chemical poisoning.

(28) "Food-contact surface" means:

(a) A surface of equipment or a utensil with which food normally comes into contact; or

(b) A surface of equipment or a utensil from which food may drain, drip, or splash:

(i) Into a food, or

(ii) Onto a surface normally in contact with food.

(29) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(30) "Food establishment" shall mean grocery store, bakery, candy factory, processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill, warehouse (cold or dry storage) and any other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold or offered for sale. This rule shall not cover food service establishments, dairy farms or plants, or meat establishments under the official meat inspection program.

(31) "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term may include convenience stores and delicatessens that offer prepared food in individual service portions. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

(32) "Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, or goat in 9 CFR Subchapter A - Mandatory Meat Inspection, part 301, as poultry in 9 CFR Subchapter C - Mandatory Poultry Products Inspection, part 381, as elk in Utah Code Annotated 4-32-4(3), or as fish.

(33) "General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

(34) "Grade A standards" means the requirements of the USPHS/FDA "Grade A Pasteurized Milk Ordinance" and "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey" with which certain fluid and dry milk and milk products comply.

(35) "HACCP Plan" means a written document that delineates the formal procedures for following the Hazard Analysis critical control point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

(36) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(37) "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

(38) "Highly susceptible population" means a group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults and in a facility that provides health care or assisted-living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day-care center.

(39) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(a) The number of potential injuries, and

(b) The nature, severity, and duration of the anticipated injury.

(40) "Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping".

(41) "Law" means applicable Local, State, and Federal statutes, ordinances, rules, and regulations.

(42) "Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

(43) "Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible

animals, except fish, poultry, and wild game animals as specified under Subsection 4-2(1)(g).

(44) "mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(45) "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(46) Packaged.

(a) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped whether packaged in a food establishment or a food service establishment.

(b) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(47) "Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

(48) "Person in charge" means the individual present at the food establishment who is responsible for the operation at the time of inspection.

(49) Personal Care Items.

(a) "Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.

(b) "Personal care items" include: items such as medicines; first aid supplies; and other items such as cosmetics; and toiletries such as toothpaste and mouthwash.

(50) "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

(51) "Physical facilities" means the structure and interior surfaces of a food establishment including: accessories such as soap and towel dispensers; and attachments such as light fixtures and heating or air conditioning system vents.

(52) "Plumbing fixture" means a receptacle or device that:

(a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(53) "Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

(54) "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in 4 categories:

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(b) Pesticides except sanitizers, which include substances such as insecticides and rodenticides;

(c) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(55) Potentially Hazardous Food.

(a) "Potentially hazardous food" means a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting:

(i) The rapid and progressive growth of infectious or toxigenic microorganisms;

(ii) The growth and toxin production of *Clostridium botulinum*; or

(iii) In shell eggs, the growth of *Salmonella enteritidis*.

(b) "Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food establishment in a way that results in mixtures that do not support growth as specified under Subsection (a) of this definition.

(c) "Potentially hazardous food" does not include:

(i) An air-cooled hard-boiled egg with shell intact;

(ii) A food with a  $a_w$  or water activity value of 0.85 or less;

(iii) A food with a pH level of 4.6 or below when measured at 24 degrees C (75 degrees F);

(iv) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; and

(v) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an  $a_w$  and a pH that are above the levels specified under Subsections (c)(ii) and (iii) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or

(vi) A food that does not support the growth of microorganisms as specified under Subsection (a) of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

(56) Poultry.

(a) "Poultry" means:

(i) Any domesticated bird; chickens, turkeys, ducks, geese, or guineas, whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations; and

(ii) Any migratory waterfowl, game bird, or squab such as pheasant, partridge, quail, grouse, or guineas, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection Program.

(b) "Poultry" does not include ratites.

(57) "Premises" means:

(a) The physical facility, its contents, and the contiguous land or property under the control of the owner of the food establishment; or

(b) The physical facility, its contents, and the contiguous land or property not described under Subsection (a) of this definition if its facilities and contents are under the control of the owner of the food establishment and may impact food establishment personnel, facilities, or operations, if a food establishment is only one

component of a larger organization such as a health care facility, hotel, motel, school, recreational camp, or prison.

(58) "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank or veal breast.

(59) "Public water system" has the meaning stated in 40 CFR Part 141 National Primary Drinking Water Regulations.

(60) Ready-to-Eat Food.

(a) "Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

(b) "Ready-to-eat food" includes:

(i) Potentially hazardous food that is unpackaged and cooked to the temperature and time required for the specific food by this rule:

(ii) Raw, washed, cut fruits and vegetables;

(iii) Whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet; and

(iv) Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

(61) Reduced Oxygen Packaging.

(a) "Reduced oxygen packaging" means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21% oxygen.

(b) "Reduced oxygen packaging" includes methods that may be referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

(62) "Refuse" means solid waste not carried by water through the sewage system.

(63) "Regulatory authority" means the Utah Department of Agriculture and Food (UDAF) which has jurisdiction over the food establishment.

(64) "Restricted-use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

(65) "Safe material" means:

(a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;

(b) An additive that is used as specified in Section 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or

(c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(66) "Sanitization" means the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(67) "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

(68) "Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(69) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(70) "Shellfish control authority" means a state, federal, foreign, tribal or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

(71) "Shellstock" means raw, in-shell molluscan shellfish.

(72) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

(73) "Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use.

(74) Single-Use Articles.

(a) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded.

(b) "Single-use articles" include items such as: wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, bread wrappers, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under Sections 5-1(1)(a), 5-2(1)(a) and 5-2(2)(a) for multiuse utensils.

(75) "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23 degrees C (-10 degrees F) to -4 degrees C (25 degrees F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(76) "Smooth" means:

(a) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;

(b) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(77) "Support animal" means a trained animal such as a Seeing Eye dog that accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would otherwise be unable to perform.

(78) "Table-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(79) "Temperature measuring device" means a thermometer, thermocouple, or other device that indicates the temperature of food, air, or water.

(80) "Temporary or Seasonal food establishment" means a food establishment that operates for a period of no more than 60 consecutive days in conjunction with a single event or celebration.

(81) "Transportation (transported)" means movement of food in commerce; within the food establishment; or delivery of food

from that food establishment to another place while under the control of the person in charge.

(82) "UDAF" means the Utah Department of Agriculture and Food.

(83) "USDA" means the U.S. Department of Agriculture.

(84) "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food; such as: kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

(85) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(86) "Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used in conjunction with the vending machines.

(87) "Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

### **R70-530-3. Management and Personnel.**

#### 3-1. Supervision.

##### (1) Responsibility.

##### Assignment.\*

The owner or manager shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

##### (2) Knowledge.

##### (a) Demonstration of knowledge.\*

Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this rule. The person in charge shall demonstrate this knowledge by compliance with this rule, by being a certified manager who has demonstrated knowledge of required information through an accredited test or by responding to the compliance officer's questions as they relate to the specific food operation. The areas of knowledge include:

(i) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;

(ii) Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;

(iii) Describe the symptoms associated with the diseases that are transmissible through food;

(iv) Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;

(v) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

(vi) Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;

(vii) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;

(viii) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(A) Cross contamination.

(B) Hand contact with ready-to-eat foods.

(C) Handwashing, and

(D) Maintaining the food establishment in a clean condition and in good repair;

(ix) Explaining the relationship between food safety and providing equipment that is:

(A) Sufficient in number and capacity, and

(B) Properly designed, constructed, located, installed, operated, maintained, and cleaned;

(x) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

(xi) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;

(xii) Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

(xiii) Identifying critical control points in the operation from purchasing through sale or service that may contribute to foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this rule;

(xiv) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this rule, or an agreement between the regulatory authority and the establishment; and

(xv) Explaining the responsibilities, rights, and authorities assigned by this rule to the:

(A) Food employee.

(B) Person in charge, and

(C) Regulatory authority.

(b) Permits for food establishment personnel.

Every person, before engaging in the manufacturing, preparation or handling of food or drink within a food establishment shall obtain a food establishment personnel permit. Said permit shall be granted only to those persons who, after making proper application, successfully pass a written examination based upon current concepts of food protection.

(i) The permit must be renewed prior to the expiration date.

(ii) The permit must be available for inspection.

##### (3) Duties.

##### Person in Charge.

The person in charge shall ensure that:

(i) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters.

(ii) Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;

(iii) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this rule;

(iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

(v) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

(vi) Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures;

(vii) Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within 4 hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

(viii) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing; and

(ix) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets.

(x) Employees are preventing cross-contamination of ready-to-eat food with their bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs or single-use gloves.

(xi) Employees are properly trained in food safety.

### 3-2. Employee Health

#### Disease or Medical Condition.

(a) Responsibility of the Person in Charge to Require Reporting by Food Employees and Applicants.\*

The employer or person in charge shall require food employees and food employee applicants to whom a conditional offer of employment is made, to report to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food. Appendix 1, Applicant and Food Employee Interview; Appendix 2, Food Employee Reporting Agreement; Appendix 3, Applicant and Food Employee Medical Referral; are sample forms that may be used for the medical condition section. A food employee or applicant shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission if the employee or applicant:

(i) Is diagnosed with an illness due to:

(A) Salmonella typhi,

(B) Shigella spp.,

(C) Escherichia coli O157:H7, or

(D) Hepatitis A virus infection;

(ii) Has a symptom caused by illness, infection, or other source that is:

(A) Associated with an acute gastrointestinal illness such as:

(I) Diarrhea,

(II) Fever,

(III) Vomiting,

(IV) Jaundice, or

(V) Sore throat with fever, or

(B) A lesion containing pus, such as a boil or infected wound, that is open or draining and is:

(I) On the hands, wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;

(II) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or

(III) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(iii) Had a past illness from an infectious agent specified in Subsection (i) of this section; or

(iv) Meets one or more of the following high-risk conditions:

(A) Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by S. typhi, Shigella spp., E. coli O157:H7, or hepatitis A virus including an outbreak at an event such as a family meal, church dinner, or festival because the food employee or applicant:

(I) Prepared food implicated in the outbreak,

(II) Consumed food implicated in the outbreak, or

(III) Consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent, or

(B) Lives in the same household as a person who is diagnosed with a disease caused by S. typhi, Shigella spp., E. coli O157:H7, or hepatitis A virus infection,

(C) Lives in the same household as a person who attends or works in a setting where there is a confirmed disease outbreak caused by S. typhi, Shigella spp., E. coli O157:H7, or hepatitis A virus infection,

(D) Traveled out of the United States or to a United States' territory within the last 50 calendar days to an area that is identified as having epidemic or endemic disease caused by S. typhi, Shigella spp., E. coli O157:H7, or hepatitis A virus based on information published by the Centers for Disease Control and Prevention, such as the document titled Health Information for International Travel.

(b) Exclusions and Restrictions.\*

The person in charge shall:

(i) Exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent with a likelihood of it being transmitted through food; or

(ii) Except as specified under Subsection (iii) or (iv) of this section, restrict a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in a food establishment if the food employee is:

(A) Suffering from a symptom specified under Subsection 3-2(a)(ii); or

(B) Not experiencing a symptom of acute gastroenteritis specified under Subsection 3-2(a)(ii)(A) but has a stool that yields a specimen culture that is positive for Salmonella typhi, Shigella spp., or Escherichia coli O157:H7;

(iii) If the population served is a highly susceptible population, exclude a food employee who:

(A) Is experiencing a symptom of acute gastrointestinal illness specified under Subsection 3-2(a)(ii)(A) and meets a high-risk condition specified under Subsections 3-2(a)(iv)(A)-(D).

(B) Is not experiencing a symptom of acute gastroenteritis specified under Subsection 3-2(a)(ii)(A) but has a stool that yields

a specimen culture that is positive for *S. typhi*, *Shigella* spp., or *E. coli* O157:H7.

(C) Had a past illness from *S. typhi* within the last 3 months, or

(D) Had a past illness from *Shigella* spp. or *E. coli* O157:H7 within the last month; and

(iv) For a food employee who is jaundiced:

(A) If the onset of jaundice occurred within the last 7 calendar days, exclude the food employee from the food establishment, or

(B) If the onset of jaundice occurred more than 7 calendar days before:

(I) Exclude the food employee from a food establishment that serves a highly susceptible population, or

(II) Restrict the food employee from activities specified under Subsection 3-2(1)(b)(ii), if the food establishment does not serve a highly susceptible population.

(v) Restrict or exclude an employee from direct food contact based on the recommendation of the UDAF or the local health department.

(c) Removal of Exclusions and Restrictions.

(i) The person in charge may remove an exclusion specified under Subsection 3-2(b)(i) if:

(A) The person in charge obtains approval from the District Health Department or the regulatory authority; and

(B) The person excluded as specified under Subsection 3-2(b)(i) provides to the person in charge written medical documentation, from a physician licensed to practice medicine, that specifies that the excluded person may work in an unrestricted capacity in a food establishment, including an establishment that serves a highly susceptible population, because the person is free of the infectious agent of concern as specified in Section 10-5(d).

(ii) The person in charge may remove a restriction specified under:

(A) Subsection 3-2(b)(ii)(A) if the restricted person:

(I) Is free of the symptoms specified under Subsection 3-2(a)(ii) and no foodborne illness occurs that may have been caused by the restricted person.

(II) Is suspected of causing foodborne illness but is free of the symptoms specified under 3-2(a)(ii), and provides written medical documentation from a physician licensed to practice medicine stating that the restricted person is free of the infectious agent that is suspected of causing the person's symptoms or causing foodborne illness, as specified in Section 10-5(d), or

(III) Provides written medical documentation, from a physician licensed to practice medicine, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or

(B) Subsection 3-2(b)(i)(B) if the restricted person provides written medical documentation from a physician, licensed to practice medicine, according to the criteria specified in Section 10-5(d) that indicates the stools are free of *Salmonella typhi*, *Shigella* spp., or *E. coli* O157:H7, whichever is the infectious agent of concern.

(iii) The person in charge may remove an exclusion specified under Subsection 3-2(b)(iii) if the excluded person provides written medical documentation from a physician licensed to practice medicine:

(A) That specifies that the person is free of:

(I) The infectious agent of concern as specified in Section 10-5(d), or

(II) Jaundice as specified under Subsection 3-2(c)(iv) if hepatitis A virus is the infectious agent of concern; or

(B) If the person is excluded under Subsection 3-2(1)(b)(iii)(A), stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.

(iv) The person in charge may remove an exclusion specified under Subsection 3-2(b)(iv)(A) and Subsection 3-2(b)(iv)(B)(II) and a restriction specified under Subsection 3-2(b)(iv)(B)(II) if:

(A) No foodborne illness occurs that may have been caused by the excluded or restricted person and the person provides written medical documentation from a physician licensed to practice medicine that specifies that the person is free of hepatitis A virus as specified in Subsection 10-5(d)(iv)(A); or

(B) The excluded or restricted person is suspected of causing foodborne illness and complies with the requirements in Subsections 10-5(d)(iv)(A) and (B).

(d) Responsibility of a Food Employee or an Applicant to Report to the Person in Charge.\*

A food employee or a person who applies for a job as a food employee shall:

(i) In a manner specified in 3-2(1) report to the person in charge the information specified in Subsections 3-2(i)-(iv); and

(ii) Comply with exclusions and restrictions that are specified in this rule.

(e) Reporting by the Person In Charge.\*

The person in charge shall notify the regulatory authority of a food employee or a person who applies for a job as a food employee who is diagnosed with, or is suspected of having an illness due to, *Salmonella typhi*, *Shigella* species, *Escherichia coli* O157:H7, or hepatitis A virus.

3-3. Personal Cleanliness.

(1) Hands and Arms.

(a) Clean Condition.\*

Food employees shall keep their hands and exposed portions of their arms clean.

(b) Handwash Procedure.\*

Food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a lavatory that is equipped to provide water at a temperature of at least 110 degrees F (43 degrees C) through a mixing valve or combination faucet, by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers.

(c) When to Wash.\*

Food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment, and utensils, and unwrapped single-service and single-use articles, and:

(i) After touching bare human body parts other than clean hands and clean, exposed portions of arms;

(ii) After using the toilet room;

(iii) After caring for or handling support animals;

(iv) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

(v) After handling soiled equipment or utensils;  
 (vi) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

(viii) When switching between working with raw foods and working with ready-to-eat foods; or

(ix) After engaging in other activities that contaminate the hands.

(d) Where to Wash.

Food employees shall clean their hands in a handwashing lavatory and may not clean their hands in a sink used for food preparation, or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(e) Hand Sanitizer.

(i) A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:

(A) Have active antimicrobial ingredients that are:

(I) Listed as safe and effective for application to human skin as an Antiseptic Handwash in a monograph for OTC (over-the-counter) Health-Care Antiseptic Drug Products, or

(II) Previously authorized, and listed for such use in the USDA List of Proprietary Substances and Nonfood Compounds, Miscellaneous Publication No. 1419;

(B) Have components that are:

(I) Regulated for the intended use as food additives as specified in 21 CFR 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers, or

(II) Generally recognized as safe (GRAS) for the intended use in contact with food within the meaning of the Federal Food, Drug, and Cosmetic Act, Section 201(s), or

(III) Exempted from the requirement of being listed in the federal food additive regulations as specified in 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; and

(III) Be applied only to hands that are cleaned as specified under Section 3-3(1)(b).

(ii) If a hand sanitizer or a chemical hand sanitizing solution used as a hand dip does not meet the criteria specified under Subsection (i)(B) of this section, use shall be:

(A) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or

(B) Limited to situations that involve no direct contact with food by the bare hands.

(iii) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 ppm chlorine.

(2) Fingernails.

Maintenance.

Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(3) Jewelry.

Prohibition.

While preparing food, food employees may not wear jewelry on their arms and hands. This section does not apply to a plain ring such as a wedding band.

(4) Outer Clothing.

Clean Condition.

Food employees shall wear clean outer clothing, such as a laundered apron, to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

3-4. Hygienic Practices.

Food Contamination Prevention.

(a) Eating, Drinking, or Using Tobacco.\*

(i) Except as specified in (ii) of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection can not result.

(ii) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

(A) The employee's hands;

(B) The container; and

(C) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(b) Discharges from the Eyes, Nose, and Mouth.\*

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(6) Hair Restraints.

Effectiveness.

(i) Food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, except as provided under (ii) of this section.

(ii) This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff, if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(7) Animals.

Handling Prohibition.\*

(i) Food employees may not care for or handle animals that may be present such as patrol dogs, support animals, or pets that are allowed under Subsections 7-5(1)(ii)(B)-(D), except as specified in (ii) of this section.

(ii) Food employees with support animals may handle or care for their support animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in a display tank if they wash their hands before working with exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

#### **R70-530-4. Food.**

4-1. Characteristics.

Safe, Unadulterated, and Honestly Presented.\*

Food shall be safe, unadulterated, and honestly presented.

4-2. Sources, Specifications, and Original Containers and Records.

(1) Sources.

(a) Compliance with Food Law.\*

(i) Food shall be obtained from sources that comply with law. Food shall be in sound condition, free from filth, decay and other contamination, and safe for human consumption.

(ii) Food prepared in a private home may not be used or offered for human consumption in a food establishment.

(iii) Packaged food shall be labeled as specified in law, including 21 CFR 101 Food Labeling, 9 CFR 317 Labeling, Marking Devices, and Containers, and 9 CFR 381 Subpart N Labeling and Containers.

(iv) Fish, other than molluscan shellfish, that are intended for consumption in their raw form shall be obtained from a supplier that freezes the fish as required by this rule; or shall be frozen on the premises as required by this rule; and records shall be retained as required.

(b) Food in a Hermetically Sealed Container.\*

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

(c) Fluid Milk and Milk Products.\*

Fluid milk and milk products shall be obtained from sources that comply with Title 4, Chapter 3.

(d) Fish.\*

Fish may not be received for sale or service unless they are commercially and legally caught or harvested.

(e) Molluscan Shellfish.\*

(i) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Manual of Operations Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish.

(ii) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(f) Wild Mushrooms.\*

Wild mushroom species shall be obtained from an approved cultivated source under inspection by an appropriate regulatory authority.

(g) Game Animals.\*

If game animals or other animals are received for sale or service they shall be:

Commercially raised for food and:

(A) Raised, slaughtered, and processed under a voluntary meat inspection program by UDAF, Division of Animal Industry, or

(B) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352 Voluntary Exotic Animal Program, or

(C) Raised, slaughtered, and processed under a routine inspection program conducted by UDAF, Division of Regulatory Services. Game meat under this program shall be:

(I) Slaughtered in facility approved by UDAF and with considerations of a antemortem and postmortem examination done by a veterinarian or a trained veterinarian's designee, or as approved by the regulatory authority.

(II) Processed under a HACCP plan according to laws governing meat and poultry products.

(2) Specifications for Transporting and Receiving.

(a) Temperature.\*

(i) Refrigerated, potentially hazardous food shall be at a temperature of 5 degrees C (41 degrees F) or below when received, except as specified under Subsection (ii) of this section.

(ii) If a temperature other than 5 degrees C (41 degrees F) for a potentially hazardous food is specified in law governing its distribution such as laws governing milk, molluscan shellfish, and shell eggs, the food may be received at the specified temperature.

(iii) Potentially hazardous food that is cooked to a temperature and for a time specified under Sections 4-4(1)(a)-(c) and received hot shall be at a temperature of 60 degrees C (140 degrees F) or above.

(iv) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

(v) Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

(b) Food Transportation.

Food, other than hanging primal cuts, quarters, or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of this rule relating to food protection and food storage. Foods packaged in immediate closed containers do not need to be overwrapped or covered if the immediate closed containers have not been opened, torn, or broken.

(c) Food Protection.

(i) During transportation and storage; food, food related items, and water, shall be protected from potential cross-contamination from toxic materials, insects, rodents, or other substances that may render the food adulterated.

(ii) The use of vehicles or vessels to transport food or water to backhaul non-food compatible materials is prohibited unless:

(A) Reconditioning has occurred that would render the vehicle or vessel safe for the transportation of food.

(B) The vehicle or vessel is properly cleaned and sanitized between the different items.

(d) Additives.\*

Food may not contain unapproved food additives or additives that exceed amounts allowed in 21 CFR 170-180, relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts allowed in 21 CFR, 181-186, substances that exceed amounts specified in 9 CFR 318.7 Approval of substances for use in the preparation of products, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

(e) Shell Eggs.\*

Shell eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR Part 56 - Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight classes for Shell Eggs, and 7 CFR Part 59 - Regulations Governing the Inspection of Eggs and Egg Products.

(f) Egg and Milk Products, Pasteurized.\*

(i) Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.

(ii) Fluid and dry milk and milk products complying with Grade A standards as established by R70-310 and Title 4, Chapter 3 shall be obtained pasteurized.

(iii) Frozen milk products such as ice cream, shall be obtained pasteurized in accordance with 21 CFR 135 Frozen Desserts.

(iv) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are provided for in the CFR, such as in 21 CFR 133 - Cheeses and Related Cheese Products, for curing certain cheese varieties.

(g) Package Integrity.\*

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(h) Ice.\*

Ice for use as a food or a cooling medium shall be made from potable drinking water.

(i) Shucked Shellfish, Packaging and Identification.

(i) Raw and frozen shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:

(A) Name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish; and

(B) The "sell by" date for packages with a capacity of less than 1.87 L (one-half gallon) or the date shucked for packages with a capacity of 1.87 L (one-half gallon) or more.

(ii) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under Subsection (i) of this section shall be subject to a hold order, and destruction.

(j) Shellstock Identification.\*

Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Manual of Operations, Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish, and that list:

(i) Except as specified under Subsection (iii) of this section, on the harvester's tag or label, the following information in the following order:

(A) The harvester's identification number that is assigned by the shellfish control authority,

(B) The date of harvesting,

(C) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested,

(D) The type and quantity of shellfish, and

(E) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days;" and

(ii) Except as specified under Subsection (iv) of this section, on each dealer's tag or label, the following information in the following order:

(A) The dealer's name and address, and the certification number assigned by the shellfish control authority,

(B) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested,

(C) The information specified under Subsections (i)(B)-(D) of this section, and

(D) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days."

(iii) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under Subsection (i) of this section shall be subject to a hold order and destruction.

(iv) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

(v) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under Subsections (ii)(A) and (B) of this section, individual dealer tags or labels need not be provided.

(k) Shellstock, Condition.

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

(3) Molluscan Shellfish, Original Containers and Records.

(a) Molluscan Shellfish, Original Container.

(i) Molluscan shellfish may not be removed from the container in which they were received other than immediately before sale or preparation for service, except as specified under Subsections (ii) and (iii) of this section.

(ii) Shellstock may be removed from the container in which they were received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(A) The source of the shellstock on display is identified as specified under Section 4-2(2)(j) and recorded as specified under Section 4-2(3)(b); and

(B) The shellstock are protected from contamination.

(iii) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

(A) The labeling information for the shellfish on display as specified under Section 4-2(2)(i) is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(B) The shellfish are protected from contamination.

(b) Shellstock, Maintaining Identification.\*

Except as specified under Subsection (ii)(B) of this section, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date the container is emptied by:

(i) Using an approved record keeping system approved by the regulatory authority that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

(ii) If shellstock are removed from their tagged or labeled container:

(A) Using only 1 tagged or labeled container at a time, or

(B) Using more than 1 tagged or labeled container at a time and obtaining a variance from the regulatory authority as specified under Section 10-1(3)(a) based on a HACCP plan that:

(I) Is submitted by the owner or person in charge and approved by the regulatory authority as specified under Section 10-1(3)(b).

(II) Preserves source identification by using a record keeping system as specified under Subsection (i) of this section, and

(III) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container before being ordered by the consumer.

4-3. Protection from Contamination after Receiving.

(1) Preventing Contamination by Employees.

(a) Preventing Contamination from Hands.\*

(i) Food employees shall wash their hands as specified under Section 3-3(1)(b) and (c).

(ii) Except when washing fruits and vegetables as specified under 4-2(2)(e) or when otherwise approved, food employees shall avoid contact with exposed ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissues, spatulas, tongs, single-use gloves or dispensing equipment.

(iii) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(b) Preventing Contamination when Tasting.\*

A food employee may not use a utensil more than once to taste food that is to be sold or served.

(2) Preventing Food and Ingredient Contamination.

(a) Packaged and Unpackaged Food - Separation, Packaging, and Segregation.\*

(i) Food shall be protected from cross contamination by:

(A) Separating raw animal foods during storage, preparation, holding, and display from:

(I) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables, and

(II) Cooked ready-to-eat food;

(B) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(I) Using separate equipment for each type, or

(II) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and

(III) Preparing each type of food at different times or in separate areas;

(C) Cleaning equipment and utensils as specified under Section 5-6(2)(i) and sanitizing as specified under Section 5-7(2);

(D) Except as specified under Subsection (ii) of this section, storing the food in packages, containers, or wrappings;

(E) Cleaning hermetically sealed containers of food of visible soil before opening;

(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(G) Storing damaged, spoiled, or recalled food being held in the food establishment in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles; and

(H) Separating fruits and vegetables, before they are washed from ready-to-eat food.

(ii) Subsection (i)(D) of this section does not apply to:

(A) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;

(B) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

(C) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks; or

(D) Food being cooled as specified under Subsection 4-5(e)(ii)(B).

(E) Shellstock.

(b) Food Storage Containers, Identified with Common Name of Food.

Working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food except that containers holding food that can be readily and unmistakably recognized, such as dry pasta, need not be identified.

(c) Pasteurized Eggs, Substitute for Shell Eggs for Certain Recipes and Populations.\*

Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or bernaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages that are not:

(i) Cooked as specified under Subsections 4-4(1)(i)(A) or (B) or

(ii) Included under Subsection 4-4(1)(iii)(A).

(d) Protection from Unapproved Additives.\*

(i) Food shall be protected from contamination that may result from the addition of:

(A) Unsafe or unapproved food or color additives; and

(B) Unsafe or unapproved levels of approved food and color additives.

(ii) A food employee may not:

(A) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B<sub>12</sub>; or

(B) Serve or sell food specified under Subsection (ii) (A) of this section that is treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this subsection.

(e) Washing Fruits and Vegetables.

(i) Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

(ii) Fruits and vegetables may be washed by using chemicals as specified under Section 8-2(4)(b).

(3) Preventing Contamination from Ice used as a Coolant.

(a) Ice Used as Exterior Coolant, Prohibited as Ingredient.

After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.

(b) Storage or Display of Food in Contact with Water or Ice.

(i) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

(ii) Unpackaged food may only be stored in direct contact with drained ice, except as specified under Subsections (iii) and (iv) of this section.

(iii) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in potable ice or water.

(iv) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(4) Preventing Contamination from Equipment, Utensils, and Wiping Cloths.

(a) Food Contact with Equipment and Utensils.\*

Food may not contact:

(i) Probe-type price or identification tags; and

(ii) Surfaces of utensils and equipment that are not cleaned as specified under Section 5-6 and sanitized under Section 5-7 of this rule.

(b) In-Use Utensils, Between-Use Storage.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

(i) In the food with their handles above the top of the food and the container; except as specified under Subsection (ii) of this section.

(ii) In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(iii) On a clean portion of the food preparation table or cooking equipment and shall be cleaned and sanitized at a frequency specified under Sections 5-6(2) and 5-7(2);

(iv) In running water of sufficient velocity or flow to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes; or

(v) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous.

(c) Linens and Napkins, Use Limitation.

Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

(d) Wiping Cloths, Used for One Purpose.

(i) Cloths that are in use for wiping food spills shall be used for no other purpose.

(ii) Cloths used for wiping food spills shall be:

(A) Dry and used for wiping food spills from tableware and carry-out containers; or

(B) Moist and cleaned, stored in a chemical sanitizer, and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.

(iii) Dry or moist cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and moist cloths used with raw animal foods shall be kept in a separate sanitizing solution.

(e) Gloves, Use Limitation.

(i) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food,

used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

(ii) Except as specified under Subsection (iii) of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under Section 4-4 such as frozen food or a primal cut of meat.

(iii) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(iv) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under Section 4-4 such as frozen food or a primal cut of meat.

(f) Using Clean Tableware for Second Portions and Refills.

(i) Food employees may not use tableware, including single-service articles, soiled by the consumer to provide second portions or refills.

(ii) Self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment, except as specified under Subsection (iii) of this section.

(iii) Cups and glasses may be reused by self-service consumers if refilling is a contamination-free process as specified under Subsections 5-2(4)(c)(i), (ii), and (iv).

(g) Refilling Returnables.

(i) A take-home food container returned to a food establishment may not be refilled at a food establishment with a potentially hazardous food.

(ii) Except as specified in Subsection (iii), a take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified under Subsection 5-6(3)(g)(ii).

(iii) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under Subsections 5-2(4)(c)(i), (ii), and (iv).

(5) Preventing Contamination from the Premises.

(a) Food Storage.

(i) Except as specified under Subsections (ii) and (iii) of this section, food shall be protected from contamination by storing the food:

(A) In a clean, dry location;

(B) Where it is not exposed to splash, dust, or other contamination; and

(C) At least 15 cm (6 inches) above the floor.

(ii) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment as specified under Section 5-2(4)(u).

(iii) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture provided that the containers are cleaned before placing on a food contact surface.

(b) Food Storage, Prohibited Areas.

Food may not be stored:

(i) In locker rooms;

(ii) In toilet rooms;

(iii) In dressing rooms;  
 (iv) In garbage rooms;  
 (v) In mechanical rooms;  
 (vi) Under sewer lines that are not shielded to intercept potential drips;  
 (vii) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;  
 (viii) Under open stairwells; or  
 (ix) Under other sources of contamination.  
 (c) Vended Potentially Hazardous Food, Original Container.  
Potentially hazardous food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.  
 (d) Food Processing Areas.  
 (i) Food processing areas where exposed food is handled, processed, and packaged, shall be:  
 (A) Limited to the processing of food.  
 (B) Completely enclosed or have a solid barrier that prevents the access of unauthorized personnel.  
 (C) Operated in a way where food items that are not compatible are processed in a separate area or in such a manner that cross-contamination does not occur between the foods. Examples of this type of situation would be, a retail meat market that processes game animals during hunting season and inspected meat products, or a processing area that handles raw meat and cheeses.  
 (D) Operated so unpackaged food is protected from environmental sources of contamination.  
 (ii) The processing area shall be protected against dirt and other debris during remodeling or construction by:  
 (A) Remodeling at a time when no food processing is occurring, after which a thorough cleaning and sanitizing of food contact surfaces is done; or  
 (B) Erecting a temporary barrier that protects the food processing area; and  
 (C) During food processing, covering any existing openings to the outside.  
 (iii) The processing of hazardous chemicals or other non food-compatible items is prohibited unless permission is granted by the UDAF.  
 (iv) Trucks or vehicles used to transport food shall not be repaired or parked in food processing areas.  
 (v) Molluscan shellfish shall be repackaged in approved facilities that specialize in the processing of fish or fish-related products.  
 (6) Preventing Contamination from Consumers  
 (a) Food Display.  
Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.  
 (b) Bulk Foods.  
 (i) Bulk foods and product modules shall be protected from contamination during display, customer self-service, refilling and storage.  
 (ii) Containers of bulk pet foods and bulk non-food items shall be separated by a barrier or open space from food modules.  
 (iii) Bulk food returned to the store by the customer shall not be offered for resale.

(iv) Only containers provided by the store in the display area shall be filled with bulk foods, except as provided under Section 5-6(3)(g).  
 (v) Customers shall be instructed to use dispensing utensils to dispense bulk products and that handling the products without using the dispensing utensils is prohibited.  
 (c) Dispensing utensils.  
 (i) To avoid unnecessary manual contact with the food, suitable dispensing utensils and single-service articles shall be used by employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils.  
 (ii) Manual contact of bulk foods by the customer during dispensing shall be avoided. Methods considered suitable are:  
 (A) Mechanical dispensing devices including gravity dispensers, pumps, extruders and augers;  
 (B) Manual dispensing utensils including tongs, scoops, ladles and spatulas; and  
 (C) Wrapping or sacking.  
 (iii) If the dispensing devices and utensils listed under Subsection (ii)(A) and (B) of this section do not prevent manual customer contact with certain bulk foods, then these foods must be wrapped or sacked prior to display.  
 (iv) Manual dispensing utensils listed under Subsection (ii)(B) shall be protected against becoming contaminated and serving as vehicles for introducing contamination into bulk food. Means considered suitable include, but are not limited to:  
 (A) Using a tether which is easily removable from the product module, constructed of easily cleanable material, is of such length that the utensil cannot contact the floor, and is designed to prevent interference with the requirement for close fitting covers, or  
 (B) Storing the utensil in a sleeve or protective housing attached or adjacent to the display unit when not in use, or utilizing a utensil designed so that the handle cannot contact the product if left in the product module.  
 (d) Condiments, Protection.  
 (i) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.  
 (ii) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.  
 (e) Consumer Self-Service Operations.\*  
 (i) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This Subsection does not apply to consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish, or to ready-to-cook individual portions for immediate cooking and consumption on the equipment such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue.  
 (ii) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.

(iii) Consumer self-service operations, such as buffets and salad bars, shall be monitored by food employees trained in safe operating procedures.

(f) Food sample demonstrations and food promotions.

(i) When food sample demonstrations and food promotions are conducted in the food establishment, the person in charge shall ensure that such activities comply with the applicable sanitation provisions of this rule.

(ii) Food demonstrations involving unpackaged food shall not be conducted in a food establishment unless a processing area is provided. The area shall have:

(A) A three (3) compartment sink; supplied with:

(I) Hot and cold water running water; and

(II) Soap and sanitizer.

(B) A Handwashing lavatory; supplied with:

(I) Hot and cold running water.

(II) Soap and hand towels.

(C) Proper waste disposal; and

(D) A conveniently located restroom.

(iii) If the food demonstration is being conducted by a business other than the owner of the food establishment, written permission issued by the owner, manager, or person in charge, shall be on file at the office of the business conducting the food demonstration that indicates they may use the food establishment's processing area for equipment cleaning and handwashing.

(iv) The food demonstration employee shall have a:

(A) Food handler permit as specified under 3-2(a).

(B) A basic knowledge of food sanitation that pertains to the food they are dispensing to the consumer for samples.

(v) Employees shall not use household or personal utensils or equipment, such as pans or cutting boards, for the demonstration, preparation or sampling of food.

(vi) Advanced preparation of any food items shall be prepared in an approved facility and not in an individual's home, as specified under 7-2(k).

(vii) In store sampling areas shall be located so the food samples can be under constant observation by a food employee trained in safe operating procedures to ensure product safety.

(g) Returned Food, Reservice or Sale.\*

(i) Except as specified under Subsection (ii) of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.

(ii) Except as specified under Section 4-8 food that is not potentially hazardous, such as crackers and condiments, in an unopened original package, and maintained in sound condition may be re-served or resold.

4-4. Destruction of Organism of Public Health Concern.

(1) Cooking.

(a) Raw Animal Foods.\*

(i) Except as specified under Subsections (ii) and (iii) of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

(A) 63 degrees C (145 degrees F) or above for 15 seconds for:

(I) Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service, and

(II) Except as specified under Subsections (i)(B) and (C) and Subsection (ii) of this section, fish and meat including game animals commercially raised for food as specified under Section 4-2(1)(g):

(B) 68 degrees C (155 degrees F) for 15 seconds or the temperature specified in the following table that corresponds to the holding time for pork, ratites, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under Section 4-2(1)(g); and raw eggs that are not prepared as specified under Subsection (i)(A)(I) of this section:

TABLE 1

|  | Minimum       |           |
|--|---------------|-----------|
|  | Temperature   | Time      |
|  | deg F (deg C) |           |
|  | 145 (63)      | 3 minutes |
|  | 150 (66)      | 1 minute  |

or

(C) 74 degrees C (165 degrees F) or above for 15 seconds for poultry, wild game animals as specified under Section 4-2(1)(g), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.

(ii) Whole beef roasts and corned beef roasts shall be cooked:

(A) In an oven that is preheated to the temperature specified for the roast's weight in the following table and that is held at that temperature:

TABLE 2

| Oven Type        | Oven Temperature Based on Roast Weight |                         |
|------------------|--|-------------------------|
|                  | Less than 4.5 kg (10 lbs)              | 4.5 kg (10 lbs) or More |
|                  | deg F (deg C)                          | deg F (deg C)           |
| Still Dry        | 350 (177) or more                      | 250 (121) or more       |
| Convection       | 325 (163) or more                      | 250 (121) or more       |
| High Humidity(1) | 250 (121) or less                      | 50 (121) or less        |

(1) Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.  
and:

(B) As specified in the following table, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

TABLE 3

| Temperature   | Time(1) in | Temperature   | Time(1) in |
|---------------|------------|---------------|------------|
| deg F (deg C) | Minutes    | deg F (deg C) | Minutes    |
| 30 (54)       | 121        | 136 (58)      | 32         |
| 132 (56)      | 77         | 138 (59)      | 19         |
| 34 (57)       | 47         | 140 (60)      | 12         |

| Temperature   | Time(1) in |
|---------------|------------|
| deg F (deg C) | Minutes    |
| 142 (61)      | 8          |
| 144 (62)      | 5          |
| 145 (63)      | 3          |

(1) Holding time may include postoven heat rise.

(iii) Subsections (i) and (ii) of this section do not apply if:

(A) Except for food service establishment serving a highly susceptible population, the food is a raw animal food such as raw egg; raw fish; raw-marinated fish; raw molluscan shellfish; steak tartare; or a partially cooked food such as lightly cooked fish, rare meat, and soft cooked eggs that is served or offered for sale in a ready-to-eat form, and the consumer is informed as specified under Section 3-6(3) that to ensure its safety, the food should be cooked as specified under Subsection (i) of this section; or

(B) The regulatory authority grants a variance from Subsection (i) or (ii) of this section as specified in Section 10-1(3)(a) based on a HACCP plan that:

(I) Is submitted by the owner or person in charge and approved as specified under Section 10-1(3)(b),

(II) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and

(III) Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

(b) Microwave Cooking.\*

Raw animal foods cooked in a microwave oven shall be:

(i) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(ii) Covered to retain surface moisture;

(iii) Heated to a temperature of at least 74 degrees C (165 degrees F) in all parts of the food; and

(iv) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

(c) Plant Food Cooking for Hot Holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 60 degrees C (140 degrees F).

(2) Freezing.

(a) Parasite Destruction.\*

(i) Except as specified under Subsection (ii) of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

(A) -20 degrees C (-4 degrees F) or below for 168 hours (7 days) in a freezer; or

(B) -35 degrees C (-31 degrees F) or below for 15 hours in a blast freezer.

(ii) If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under Subsection (i) of this section.

(b) Records, Creation and Retention.

(i) Except as specified under Subsection 4-4(2)(a)(i) and Subsection (ii) of this section, if raw, marinated, or partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.

(ii) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under Section 4-

4(2)(a) may substitute for the records specified under Subsection (i) of this section.

(3) Reheating.

(a) Reheating for Hot Holding.\*

(i) Except as specified under Subsections (ii), (iii), and (v) of this section, potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74 degrees C (165 degrees F) for 15 seconds.

(ii) Except as specified under Subsection (iii) of this section, potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74 degrees C (165 degrees F) and the food is rotated or stirred, covered, and allowed to stand covered 2 minutes after reheating.

(iii) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 60 degrees C (140 degrees F) for hot holding.

(iv) Reheating for hot holding shall be done rapidly and the time the food is between the temperature specified under 4-5(1)(f)(ii) or (iii) and 74 degrees C (165 degrees F) may not exceed 2 hours.

(v) Remaining unsliced portions of roasts of beef that are cooked as specified in Subsection 4-4(1)(a)(iii) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified in Subsection 4-4(1)(a)(ii).

(b) Reheating for Immediate Service.

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

4-5. Limitation of Growth of Organism of Public Health Concern

(1) Temperature and Time Control.

(a) Frozen Food.

Stored frozen foods shall be maintained frozen.

(b) Potentially Hazardous Food, Slacking.

Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

(i) Under refrigeration that maintains the food temperature at 5 degrees C (41 degrees F) or less, or at 7 degrees C (45 degrees F) or less; or less as specified under 4-5(1)(f)(iii) or;

(ii) At any temperature if the food remains frozen.

(c) Thawing.

Except as specified under Subsection (iv) of this section, potentially hazardous food shall be thawed:

(i) Under refrigeration that maintains the food temperature at 5 degrees C (41 degrees F) or less, or at 7 degrees C (45 degrees F) or less, or less as specified under 4-5(1)(f)(iii) or;

(ii) Completely submerged under running water:

(A) At a water temperature of 21 degrees C (70 degrees F) or below,

(B) With sufficient water velocity to agitate and float off loose particles in an overflow, and

(C) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 5 degrees C (41 degrees F), or 7 degrees C (45 degrees F) as specified under 4-5(1)(f)(iii) or,

(D) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 5 degrees C (41 degrees F), or 7 degrees C (45 degrees F); or as specified under 4-5(1)(f)(iii) for more than 4 hours including:

(I) The time the food is exposed to the running water and the time needed for preparation for cooking, or

(II) The time it takes under refrigeration to lower the food temperature to at 5 degrees C (41 degrees F), or at 7 degrees C (45 degrees F) as specified under 4-5(1)(f)(iii);

(iii) As part of a cooking process if the food that is frozen is:

(A) Cooked as specified under Subsections 4-4(1)(a)(i) or (ii) or Section 4-4(1)(b), or

(B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

(iv) Using any procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

(d) Cooling.\*

(i) Cooked potentially hazardous food shall be cooled:

(A) Within 2 hours, from 60 degrees C (140 degrees F) to 21 degrees C (70 degrees F); and

(B) Within 4 hours, from 21 degrees C (70 degrees F) to 5 degrees C (41 degrees F) or less, or at 7 degrees C (45 degrees F) or less as specified under 4-5(1)(f)(iii).

(ii) Potentially hazardous food shall be cooled within 4 hours to 5 degrees C (41 degrees F) or less, or at 7 degrees C (45 degrees F) or less as specified under 4-5(1)(f)(iii) if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(iii) Except as specified under Subsection (iv) of this section, a potentially hazardous food received in compliance with laws allowing a temperature above 5 degrees C (41 degrees F) during shipment from the supplier as specified under Subsection 4-2(2)(a)(ii), shall be cooled within 4 hours to 5 degrees C (41 degrees F) or less, or 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii).

(iv) Shell eggs need not comply with Subsection (iii) of this section if the eggs are placed immediately upon their receipt in refrigerated equipment that is capable of maintaining food at 5 degrees C (41 degrees F) or less, or 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii).

(e) Cooling Methods.

(i) Cooling shall be accomplished in accordance with the time and temperature criteria specified under Section 4-5(1)(d) by using one or more of the following methods based on the type of food being cooled:

(A) Placing the food in shallow pans;

(B) Separating the food into smaller or thinner portions;

(C) Using rapid cooling equipment;

(D) Stirring the food in a container placed in an ice water bath;

(E) Using containers that facilitate heat transfer;

(F) Adding ice as an ingredient;

(G) Other effective methods.

(ii) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

(A) Arranged in the equipment to provide maximum heat transfer through the container walls; and

(B) Loosely covered, or uncovered if protected from overhead contamination, such as splash, dust, or other contamination, during the cooling period to facilitate heat transfer from the surface of the food.

(f) Potentially Hazardous Food, Hot and Cold Holding.\*

Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under Section 4-5(1)(i), potentially hazardous food shall be maintained:

(i) At 60 degrees C (140 degrees F) or above; except that roasts cooked to a temperature and for a time specified under Section 4-4(3) may be held at a temperature of 54 degrees C (130 degrees F); or

(ii) At 5 degrees C (41 degrees F) or less, except as specified under Subsection (iii) of this section, Sections 4-5(1)(g) and (h), and 5-2(4)(k).

(iii) At 45 degrees F or between 7 degrees C (45 degrees F) and 5 degrees C (41 degrees F) in existing refrigeration equipment that is not capable of maintaining the food at 5 degrees C (41 degrees F) or less if:

(A) The equipment is in place and in use in the food establishment; and

(B) Within 5 years of the regulatory authority's adoption of this rule, the equipment is upgraded or replaced to maintain food at a temperature of 5 degrees C (41 degrees F) or less.

(g) Ready-to-Eat, Potentially Hazardous Food, Date Marking.\*

(i) Except as specified under Subsection (v) of this section, refrigerated, ready-to-eat, potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed which is, including the day of preparation:

(A) 7 calendar days or less from the day that the food is prepared, if the food is maintained at 5 degrees C (41 degrees F) or less; or

(B) 4 calendar days or less from the day the food is prepared, if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii).

(ii) Except as specified under Subsection (v) of this section, a ready-to-eat, potentially hazardous food prepared in a food establishment and subsequently frozen, shall be clearly marked:

(A) When the food is thawed, to indicate that the food shall be consumed within 24 hours; or

(B) When the food is placed into the freezer, to indicate the length of time before freezing that the food is held refrigerated and which is, including the day of preparation:

(I) 7 calendar days or less from the day of preparation, if the food is maintained at 5 degrees C (41 degrees F) or less, or

(II) 4 calendar days or less from the day of preparation, if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii); and

(C) When the food is removed from the freezer, to indicate the date by which the food shall be consumed which is:

(I) 7 calendar days or less after the food is removed from the freezer, minus the time before freezing, that the food is held refrigerated if the food is maintained at 5 degrees C (41 degrees F) or less before and after freezing, or

(II) 4 calendar days or less after the food is removed from the freezer, minus the time before freezing, that the food is held

refrigerated if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii) before and after freezing.

(iii) Except as specified under Subsections (v) and (vi) of this section, a container of refrigerated, ready-to-eat potentially hazardous food, prepared and packaged by a food processing plant, shall be clearly marked at the time the original container is opened in a food establishment, to indicate the date by which the food shall be consumed which is, including the day the original container is opened:

(A) 7 calendar days or less after the original container is opened, if the food is maintained at 5 degrees C (41 degrees F) or less; or

(B) 4 calendar days or less from the day the original container is opened, if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii).

(iv) Except as specified under Subsections (v) and (vi) of this section, a container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a food processing plant and subsequently opened and frozen in a food establishment shall be clearly marked:

(A) When the food is thawed, to indicate that the food shall be consumed within 24 hours; or

(B) To indicate the time between the opening of the original container and freezing that the food is held refrigerated and which is, including the day of opening the original container:

(I) 7 calendar days or less, after opening the original container if the food is maintained at 5 degrees C (41 degrees F) or less, or

(II) 4 calendar days or less after opening the original container if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii); and

(C) When the food is removed from the freezer, to indicate the date by which the food shall be consumed which is:

(I) 7 calendar days, minus the time before freezing, that the food is held refrigerated if the food is maintained at 5 degrees C (41 degrees F) or less before and after freezing, or

(II) 4 calendar days, minus the time before freezing, that the food is held refrigerated if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii) before and after freezing.

(v) Subsections (i)-(iv) of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(vi) Subsections (iii) and (iv) of this section do not apply to whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.

(h) Ready-to-Eat, Potentially Hazardous Food, Disposition.\*

(i) A food specified under Subsection 4-5(1)(g)(i) shall be discarded if not consumed within:

(A) 7 calendar days from the date of preparation if the food is maintained at 5 degrees C (41 degrees F) or less; or

(B) 4 calendar days from the date of preparation if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii).

(ii) A food specified under Subsection 4-5(1)(g)(ii)(A) or (iv)(A) shall be discarded if not consumed within 24 hours after thawing.

(iii) A food specified under Subsections 4-5(1)(g)(ii)(A) and (C) or (iv)(B) and (C) shall be discarded on or before the most recent date marked on the food container or package if the food is not consumed by that date.

(iv) A food specified under Subsection 4-5(1)(g)(iii) shall be discarded if not consumed within, including the day of opening the original container:

(A) 7 calendar days after the date that the original package is opened in a food establishment if the food is maintained at 5 degrees C (41 degrees F) or less; or

(B) 4 calendar days after the date that the original package is opened in a food establishment if the food is maintained at 7 degrees C (45 degrees F) or less as specified under Subsection 4-5(1)(f)(iii).

(v) A food specified under Subsection 4-5(1)(g)(i),(ii),(iii), or (iv) shall be discarded if the food is:

(A) Marked with the date specified under Subsection 4-5(1)(g)(i), (ii), (iii), or (iv) and the food is not consumed before the most recent date expires;

(B) In a container or package which does not bear a date or time; or

(C) Inappropriately marked with a date or time that exceeds the date or time specified under Subsection 4-5(1)(g)(i), (ii), (iii), or (iv).

(vi) Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shut-off control that is activated at a temperature of:

(A) 5 degrees C (41 degrees F) shall be discarded if not sold within 7 days; or

(B) 7 degrees C (45 degrees F) shall be discarded if not sold within 4 days.

(i) Time as a Public Health Control.\*

If time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption:

(i) The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control;

(ii) The food shall be cooked and served, served if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control;

(iii) The food in unmarked containers or packages or marked to exceed a 4 hour limit shall be discarded; and

(iv) Written procedures shall be maintained in the food establishment and made available to the regulatory authority upon request, that ensure compliance with:

(A) Subsections (i)-(iii) of this section, and

(B) Section 4-5(1)(d) for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(2) Specialized Processing Methods.

(a) Variance Requirement.\*

A food establishment shall obtain a variance from the regulatory authority as specified in Section 10-1(3)(a) and under Section 10-1(3)(b) before smoking or curing food; adding components such as vinegar as a method of food preservation rather

than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; using a reduced oxygen method of packaging food except as specified under Section 4-5(2)(b) where a barrier to *Clostridium botulinum* in addition to refrigeration exists; custom processing animals that are for personal use as food and not for sale or service in a food establishment; or preparing food by another method that is determined by the regulatory authority to require a variance.

(b) Reduced Oxygen Packaging, Criteria.\*

(i) A food establishment that packages food using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified under Section 10-2(1)(d)(iv) and that:

(A) Identifies the food to be packaged;

(B) Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:

(I) Has an  $AW(a_w)$  of 0.91 or less,

(II) Has a PH(pH) of 4.6 or less,

(III) Is a meat or poultry product cured at a food processing plant regulated by the U.S. Department of Agriculture using substances specified in 9 CFR 318.7 Approval of substances for use in preparation of products and 9 CFR 381.147 Restriction on the use of substances in poultry products and is received in an intact package, or

(IV) Is a food with a high level of competing organisms such as raw meat or raw poultry;

(C) Specifies methods for maintaining food at 5 degrees C (41 degrees F) or below;

(D) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(I) Maintain the food at 5 degrees C (41 degrees F) or below, and

(II) Discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

(E) Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(F) Includes operational procedures that:

(I) Prohibit contacting food with bare hands,

(II) Identify a designated area and the method by which the physical barriers or methods of separation of raw foods and ready-to-eat foods or non-food such as chemicals are minimized to prevent cross contamination, and access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

(III) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(G) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

(I) Concepts required for a safe operation,

(II) Equipment and facilities, and

(III) Procedures specified under Subsection (i)(F) of this section and Subsection 10-2(1)(d)(iv).

(ii) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

4-6. Food Identity, Presentation, and On-Premise Labeling.

(1) Accurate Representation.

(a) Standards of Identity.

Packaged foods shall comply with standards of identity, including 21 CFR 131-169 and 9 CFR 319 Definitions and Standards of Identity or Composition, and the general requirements of 21 CFR 130-Food Standards: General and 9 CFR 319 Subpart A-General.

(b) Honestly Presented.

(i) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

(ii) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of food.

(2) Labeling.

(a) Food Labels.

(i) Food packaged in a food establishment shall be labeled according to law, including 21 CFR 101-Food Labeling, 9 CFR 317 Labeling, Marking Devices, and Containers.

(ii) Food that is not packaged need not be labeled unless a health or nutrient claim is made, except as specified in Subsection (iii).

(ii) Label information shall include:

(A) The common name of the food, or absent a common name, an adequately descriptive identity statement;

(B) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

(C) An accurate declaration of the net quantity of contents;

(D) The name and place of business of the manufacturer, packer, or distributor; and

(E) Except as exempted in the Federal Food, Drug, and Cosmetic Act, Section 403(Q)(3)-(5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

(iii) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

(A) The manufacturer's or processor's label that was provided with the food; or

(B) A card, sign, or other method of notification that includes the information specified under Subsections (ii)(A) and (B) of this section.

(I) The ingredient statement shall be printed in type size not less than 1/8 inch in height and shall be easily legible.

(II) Bulk food bins are exempt from nutritional labeling provided that a health, nutrient content, or other claim is not made in any context on the label or advertising.

(b) Full-service Food, Wrapped or Unwrapped.

Food items which are accessible to customers only through employee-assistance, such as products from delis, bakeries, candy counters, etc., need not be labeled with ingredient information. However, complete and correct ingredient information for all products offered for sale shall be:

(A) Readily available to all store personnel in case of consumer questions. This information must be accurate and kept current for the benefit of any customer who may need it.

(B) Any nutrition or health information or claims about any such product also mandates the availability of Nutrition Facts for that product.

(c) Other Forms of Information.

(i) If required by law, consumer warnings shall be provided.

(ii) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

(iii) Food not intended for human consumption in a storage warehouse shall be conspicuously labeled, "Inedible - Not For Human Consumption."

(d) Labeling Requirements of Refrigerated Foods.

(i) Except as specified under Subsection (iv) of this section, highly perishable, packaged, processed foods and shipping containers which contain these products that must be refrigerated for safety reasons shall be labeled in the following manner:

(A) "IMPORTANT, Must be Kept Refrigerated", in the following format:

(I) The statement should be set off by the use of hairlines at the top and bottom of the statement area. The type should be on a clear contrasting background. All type should utilize a single easy-to-read style and size, have at least one point leading and ensure that letters should never touch. The word "IMPORTANT" shall be in all capital letters. The rest of the statement shall capitalize the first letter in each word.

(II) The "IMPORTANT Must Be Kept Refrigerated" statement shall be placed in a clear and prominent place on the label.

(B) If these products are frozen for storage and distribution only, they shall still bear the "IMPORTANT Must Be Kept Refrigerated" statement after they are thawed for refrigerated marketing.

(ii) Food products intended to be refrigerated, that do not pose a safety hazard if temperature abused shall bear the "Keep Refrigerated" statement. Products that possess one or more of the following attributes could be considered products that would not cause a public health hazard if improperly handled:

(A) Product has a pH less than 4.6; or

(B) Water activity that is 0.85 or less; or

(C) Receives a thermal process adequate to inactivate foodborne pathogens which could, through persistence or growth in the product, cause a health hazard under moderate condition of temperature abuse during storage and distribution, or

(D) None of the above, but has a barrier(s) imparted by either intrinsic or extrinsic factors scientifically demonstrated to eliminate foodborne pathogens or prevent their growth. Combinations of individual barriers in some products may provide a synergistic inhibitory effect which is greater than achieved by the use of a single barrier alone.

(iii) Products that are shelf-stable until opening, but need refrigeration after opening shall bear the label statement "Refrigerate after opening" or variation thereof.

(iv) These labeling requirements need not apply to food products traditionally sold under refrigeration, such as dairy products; cured meats; poultry and seafood; or raw uncut agricultural commodities.

(v) Deviations from this specific wording in (i) through (iv) of this section must be reviewed by the Utah Department of Agriculture and Food before being used on product labels.

(3) Consumer Advisory.

Consumption of Raw or Undercooked Animal Foods.\*

(i) If a raw or undercooked animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food, the owner may inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form.

(ii) The following language will satisfy the consumer advisory requirements. "Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of foodborne illness. Individuals with certain health conditions may be at higher risk if these foods are consumed raw or undercooked. Consult your physician or public health official for further information".

4-7. Contamination.

Disposition.

(a) Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.\*

(i) A food that is unsafe, adulterated, or not honestly presented shall be reconditioned according to a procedure approved by the regulatory authority or discarded.

(ii) Food that is not from an approved source as specified under Sections 4-2(1) shall be discarded.

(iii) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded shall be discarded.

(iv) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

4-8. Additional Safeguards.

Pasteurized Foods, Prohibited Reservice, and Prohibited Food.\*

In a food establishment that serves a highly susceptible population:

(i) Apple juice, apple cider, and other beverages containing apple juice served to a highly susceptible population shall be obtained pasteurized, or in a commercially sterile shelf-stable form in a hermetically sealed container;

(ii) Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of:

(A) Foods such as Caesar salad, hollandaise or bernaise sauce, mayonnaise, egg nog, ice cream, and egg-fortified beverages, and

(B) Eggs that are broken, combined in a container, and not cooked immediately or eggs that are held before service following cooking;

(iii) Food in an unopened original package may not be re-served; and

(iv) Raw animal food such as raw, raw-marinated fish; raw molluscan shellfish; steak tartare; or a partially cooked food such as lightly cooked fish, rare meat; and soft-cooked eggs may not be served or offered for sale in a ready-to-eat form.

#### **R70-530-5. Equipment, Utensils, and Linens.**

5-1. Materials for Construction and Repair.

(1) Multiuse.

(a) Characteristics.\*

Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- (i) Safe;
- (ii) Durable, corrosion-resistant, and nonabsorbent;
- (iii) Sufficient in weight and thickness to withstand repeated warewashing;
- (iv) Finished to have a smooth, easily cleanable surface; and
- (v) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(b) Cast Iron, Use Limitation.

(i) Cast iron may not be used for utensils or food-contact surfaces of equipment except as specified in Subsections (ii) and (iii) of this section.

(ii) Cast iron may be used as a surface for cooking.

(iii) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(c) Lead in Ceramic, China, and Crystal Utensils, Use Limitation.

Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

TABLE 4

| Utensil Category  | Description              | Maximum Lead (mg/L) |
|-------------------|--------------------------|---------------------|
| Hot Beverage Mugs | Coffee Mugs              | 0.5                 |
| Large Holloware   | Bowls>1.1 L<br>(1.16 QT) | 1                   |
| Small Holloware   | Bowls<1.1 L<br>(1.16 QT) | 2.0                 |
| Flat Utensils     | Plates, Saucers          | 3.0                 |

(d) Copper, Use Limitation.\*

(i) Except as specified in Subsection (ii) of this section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(ii) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

(e) Galvanized Metal, Use Limitation.\*

Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic foods.

(f) Sponges, Use Limitation.

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(g) Lead in Pewter Alloy, Use Limitation.

Pewter alloy containing lead in excess of 0.05% may not be used as a food-contact surface.

(h) Lead in Solder and Flux, Use Limitation.

Solder and flux containing lead in excess of 0.2% may not be used on surfaces that contact food.

(i) Wood, Use Limitation.

(i) Wood and wood wicker may not be used as a food-contact surface, except as specified in Subsections (ii), (iii), and (iv) of this section.

(ii) Hard maple or an equivalently hard, close-grained wood may be used for:

(A) Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(B) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110 degrees C (230 degrees F) or above.

(iii) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(iv) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(A) Untreated wood containers; or

(B) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for wood.

(j) Nonfood-Contact Surfaces.

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a durable, corrosion-resistant, nonabsorbent, and smooth material.

(k) Nonstick Coatings, Use Limitation.

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

(2) Single-Service and Single-Use.

Characteristics.\*

Materials that are used to make single-service and single-use articles:

(i) May not:

(A) Allow the migration of deleterious substances; or

(B) Impart colors, odors, or tastes to food; and

(ii) Shall be:

(A) Safe; and

(B) Clean.

5-2. Design and Construction.

(1) Durability and Strength.

(a) Equipment and Utensils.

Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(b) Food Temperature Measuring Devices.\*

Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

(2) Cleanability.

(a) Food-Contact Surfaces.\*

Multiuse food-contact surfaces shall be:

(i) Smooth;

(ii) Free of breaks, open seams, cracks, chips, pits, and similar imperfections;

(iii) Free of sharp internal angles, corners, and crevices;  
 (iv) Finished to have smooth welds and joints; and  
 (v) Accessible for cleaning and inspection by one of the following methods:

(A) Without being disassembled,

(B) By disassembling without the use of tools, or

(C) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screw drivers, pliers, open-end wrenches and Allen wrenches that are kept near the equipment.

(b) CIP Equipment.

(i) CIP equipment shall meet the characteristics specified under Section 5-2(2)(a) cleanliness of food contact surfaces, and shall be designed and constructed so that:

(A) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; and

(B) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

(ii) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

(c) "V" Threads, Use Limitation.

"V" type threads may not be used on food-contact surfaces. This section does not apply to hot oil cooking or filtering equipment.

(d) Hot Oil Filtering Equipment.

Hot oil filtering equipment shall meet the characteristics specified under Section 5-2(2)(a) or Section 5-2(2)(b) and shall be readily accessible for filter replacement and cleaning of the filter.

(e) Can Openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

(f) Nonfood-Contact Surfaces.

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

(g) Kick Plates, Removable.

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

(i) Removable by one of the methods specified in Subsections 5-2(2)(a)(v)(A) through (C) or capable of being rotated open; and

(ii) Removable or capable of being rotated open without unlocking equipment doors.

(h) Ventilation Hood Systems, Filters.

Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(3) Accuracy.

Temperature Measuring Devices, Food.

(i) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to +/- 1 degrees C in the intended range of use.

(ii) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to +/- 2 degrees F in the intended range of use.

(b) Temperature Measuring Devices, Ambient Air and Water.

(i) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall

be designed to be easily readable and accurate to +/- 1.5 degrees C (2.7 degrees F) in the intended range of use range.

(ii) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to +/- 3 degrees F in the intended range of use.

(c) Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pounds per square inch) or smaller and shall be accurate to +/- 14 kilopascals (+/- 2 pounds per square inch) in the 100-170 kilopascals (15-25 pounds per square inch) range.

(4) Functionality.

(a) Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(b) Equipment Openings, Closures and Deflectors.

(i) A cover or lid for equipment shall overlap the opening and be sloped to drain.

(ii) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (2/10 of an inch).

(iii) Fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment, except as specified under Subsection (iv) of this section.

(iv) If a watertight joint is not provided:

(A) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from food openings; and

(B) The opening shall be flanged as specified under Subsection (ii) of this section.

(c) Dispensing Equipment, Protection of Equipment and Food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

(i) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(ii) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(iii) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(A) Located in an outside area that does not otherwise afford protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or

(B) Available for self-service during hours when it is not under the full-time supervision of a food employee; and

(iv) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(d) Vending Machines, Vending Stage Closure.

The dispensing compartment of vending machines including a machine that is designed to vend prepackaged snack foods that is not potentially hazardous such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machines is:

(i) Located in an outside area that does not otherwise afford protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(ii) Available for self-service during hours when it is not under the full-time supervision of a food employee.

(e) Bearings and Gear Boxes, Leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

(f) Beverage Tubing, Separation.

Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This section does not apply to cold plates that are constructed integrally with an ice storage bin.

(g) Ice Units, Separation of Drains.

Liquid waste drain lines may not pass through an ice machine or ice storage bin.

(h) Condenser Unit, Separation.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

(i) Can Openers on Vending Machines.

Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

(j) Molluscan Shellfish Tanks.

(i) Molluscan shellfish life support system display tanks may only be used to display shellfish that are not offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only, except as specified under Subsection (ii) of this section.

(ii) Molluscan shellfish life-support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by a regulatory authority as specified under 10-1(3)(a) and a HACCP plan that:

(A) Is submitted by the owner or person in charge as specified under 10-1(3)(b); and

(B) Ensure that:

(I) Water used with fish other than molluscan shellfish does not flow into the molluscan tank,

(II) The safety and quality of the shellfish as they were received are not compromised by use of the tank, and

(III) The identity of the source of the shellstock is retained as specified under Section 4-2(2)(j).

(k) Vending Machines, Automatic Shutoff.\*

(i) A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food:

(A) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that can not maintain food temperatures as specified under Chapter 4; and

(B) If a condition specified in Subsection (i)(A) of this section occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Chapter 4.

(ii) When the automatic shutoff within a machine vending potentially hazardous food is activated:

(A) In a refrigerated vending machine, the ambient temperature may not exceed 5 degrees C (41 degrees F) or 7 degrees C (45 degrees F) as specified under Subsection 4-5(1)(f)(iii) for no more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

(B) In a hot holding vending machine, the ambient temperature may not be less than 60 degrees C (140 degrees F) for more than 120 minutes after the machine is filled, serviced, or restocked.

(l) Temperature Measuring Devices.

(i) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(ii) Cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display, except as specified in Subsection (iii) of this section.

(iii) Subsection (ii) of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

(iv) Temperature measuring devices shall be designed to be easily readable.

(v) Food temperature measuring devices shall have a numerical scale, printed record, or digital readout in increments no greater than 1 degrees C or 2 degrees F in the intended range of use.

(m) Warewashing Machines, Sanitizer Level Indicator.

A warewashing machine that uses a chemical for sanitization and that is installed after adoption of this rule by the regulatory authority, shall be equipped with a device that indicates audibly or visually when more chemical sanitizer needs to be added.

(n) Warewashing Machine, Data Plate Operating Specifications.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

(i) Temperatures required for washing, rinsing, and sanitizing;

(ii) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

(iii) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

(o) Warewashing Machines, Internal Baffles.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

(p) Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

(i) In each wash and rinse tank; and

(ii) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

(q) Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

(i) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77 degrees C (171 degrees F); and

(ii) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

(r) Warewashing Machines, Flow Pressure Device.

(i) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and

(ii) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or 1/4-inch Iron Pipe Size (IPS) valve.

(iii) Subsections (i) and (ii) of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

(s) Warewashing Sinks and Drainboards, Self-Draining.

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

(t) Equipment Compartments, Drainage.

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

(u) Vending Machines, Liquid Waste Products.

(i) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

(ii) Vending machines that dispense liquid food in bulk shall be:

(A) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

(B) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

(iii) Shutoff devices specified in Subsection (ii)(B) of this section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

(v) Case Lot Handling Equipment, Moveability.

Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

(w) Vending Machine Doors and Openings.

(i) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or 1/16 inch by:

(A) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or 1/16 inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;

(B) Being effectively gasketed;

(C) Having interface surfaces that are at least 13 millimeters or 1/2 inch wide; or

(D) Jamb or surfaces used to form an L-shaped entry path to the interface.

(ii) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or 1/16 inch.

(x) Restraining of Pressurized Containers

Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over.

(y) Food Equipment, Certification and Classification.

Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program will be deemed to comply with Sections 5-1 and 5-2 of this chapter.

5-3. Numbers and Capacity.

(1) Equipment.

(a) Cooling, Heating, and Holding Capacities.

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Chapter 4.

(b) Manual Warewashing, Sink Compartment Requirements.

(i) A sink with at least 3 compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils, except as specified in Subsection (iii) of this section.

(ii) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in Subsection (iii) of this section shall be used.

(iii) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and the regulatory authority has approved the use of the alternative equipment. Alternative manual warewashing equipment may include:

(A) High-pressure detergent sprayers;

(B) Low- or line-pressure spray detergent foamers;

(C) Other task-specific cleaning equipment;

(D) Brushes or other implements;

(E) Receptacles that substitute for the compartments of a multicompartment sink if approved by the regulatory authority.

(c) Drainboards.

Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

(d) Ventilation Hood Systems, Adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(e) Clothes Washers and Dryers.

(i) If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used, except as specified in Subsection (ii) of this section.

(ii) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under Section 5-9(1)(b), a mechanical clothes washer and dryer need not be provided.

(2) Utensils, Temperature Measuring Devices, and Testing Devices(a) Utensils, Consumer Self-Service.

A food dispensing utensil shall be available for each display container displayed at a consumer self-service unit such as a buffet or salad bar.

(b) Food Temperature Measuring Devices.

Food temperature measuring devices shall be provided and readily accessible for use in assuring attainment and maintenance of food temperatures as specified under Chapter 4.

(c) Temperature Measuring Devices, Manual Warewashing.

In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

(d) Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

5-4. Location and Installation.(1) Location.Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention.

(i) Except as specified in Subsection (ii) of this section, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:

(A) In locker rooms;

(B) In toilet rooms;

(C) In garbage rooms;

(D) In mechanical rooms;

(E) Under sewer lines that are not shielded to intercept potential drips;

(F) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

(G) Under open stairwells; or

(H) Under other sources of contamination.

(ii) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

(iii) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles. Separate rooms shall be provided for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(2) Installation.

(a) Fixed Equipment, Spacing or Sealing.

(i) Equipment that is fixed because it is not easily movable shall be installed so that it is:

(A) Spaced to allow access for cleaning along the sides, behind, and above the unit;

(B) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or 1/32 inch; or

(C) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(ii) Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

(A) Sealed to the table; or

(B) Elevated on legs as specified under Subsection 5-4(2)(iv).

(b) Fixed Equipment, Elevation or Sealing.

(i) Floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inches) clearance between the floor and the equipment, except as specified in Subsection (ii) and (iii) of this section.

(ii) If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).

(iii) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(iv) Table-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10 centimeter (4 inches) clearance between the table and the equipment, except as specified in Subsection (v) of this section.

(v) The clearance space between the table and table-mounted equipment may be:

(A) 7.5 centimeters (3 inches) if the horizontal distance of the table top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or

(B) 5 centimeters (2 inches) if the horizontal distance of the table top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

(c) Aisles and Working Spaces.

Aisles and working spaces between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks, and opened-ended pallets shall be positioned to provide accessibility to working areas.

5-5. Maintenance and Operation.(1) Equipment.(a) Good Repair and Proper Adjustment.

(i) Equipment shall be maintained in a state of good repair and condition that meets the requirements specified in Sections 5-1 and 5-2.

(ii) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturers' specifications.

(iii) Cutting or piercing parts of can openers shall be kept sharp to eliminate the creation of metal fragments that can contaminate food when the container is opened.

(b) Cutting Surfaces.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(c) Warewashing Equipment, Cleaning Frequency.

A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

(i) Before use;

(ii) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(iii) If used, at least every 24 hours.

(d) Warewashing Machines, Manufacturers' Operating Instructions.

(i) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

(ii) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

(e) Warewashing Sinks, Use Limitation.

(i) A warewashing sink may not be used for hand washing or dumping mop water.

(ii) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under Section 5-5(1)(c) before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under Section 5-7 before and after using the sink to wash produce or thaw food.

(f) Warewashing Equipment, Cleaning Agents.

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment, shall, when used for warewashing, contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

(g) Warewashing Equipment, Clean Solutions.

The wash, rinse, and sanitize solutions shall be maintained clean.

(h) Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43 degrees C (110 degrees F) unless a different temperature is specified on the cleaning agent manufacturer's label instructions.

(i) Mechanical Warewashing Equipment, Wash Solution Temperature.

(i) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

(A) For a stationary rack, single temperature machine, 74 degrees C (165 degrees F);

(B) For a single tank, conveyor, dual temperature machine, 71 degrees C (160 degrees F);

(C) For a stationary rack, dual temperature machine, 66 degrees C (150 degrees F); or

(D) For a multitank, conveyor, multitemperature machine, 66 degrees C (150 degrees F).

(ii) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 49 degrees C (120 degrees F).

(j) Manual Warewashing Equipment, Hot Water Sanitization Temperatures.\*

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77 degrees C (171 degrees F) or above.

(k) Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(i) Except as specified in Subsection (ii) of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 90 degrees C (194 degrees F), or less than:

(A) For a stationary rack, single temperature machine, 74 degrees C (165 degrees F); or

(B) For all other machines, 82 degrees C (180 degrees F).

(ii) The maximum temperature specified under Subsection (i) of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

(l) Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine may not be less than 100 kilopascals (15 pounds per square inch) or more than 170 kilopascals (25 pounds per square inch) as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve.

(m) Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness.\*

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified in Subsection 5-7(3)(iii) shall be listed in 21 CFR 178.1010 Sanitizing solutions, shall be used in accordance with the EPA-approved manufacturer's label use instructions, and shall be used as follows:

(i) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following table:

TABLE 5

| Minimum Concentration<br>(mg/L) | Minimum Temperature            |                               |
|---------------------------------|--------------------------------|-------------------------------|
|                                 | pH 10 or less<br>deg F (deg C) | pH 8 or less<br>deg F (deg C) |
| 25                              | 120 (49)                       | 120 (49)                      |
| 50                              | 100 (38)                       | 75 (24)                       |
| 100                             | 55 (13)                        | 55 (13)                       |

(ii) An iodine solution shall have a:

(A) Minimum temperature of 24 degrees C (75 degrees F),

(B) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, and

(C) Concentration between 12.5 mg/L and 25 mg/L;

(iii) A quaternary ammonium compound solution shall:

(A) Have a minimum temperature of 24 degrees C (75 degrees F),

(B) Have a concentration as specified under Section 8-2(4)(a) and as indicated by the manufacturer's use directions included in the labeling, and

(C) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label;

(iv) If another solution of a chemical specified under Subsections (i) through (iii) of this section is used, the person in charge shall demonstrate to the regulatory authority that the solution achieves sanitization and the use of the solution shall be approved; or

(v) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the manufacturer's use directions included in the labeling.

(n) Warewashing Equipment, Determining Chemical Sanitizer Concentration.

Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

(2) Utensils and Temperature Measuring Devices.

(a) Good Repair and Proper Calibration.

(i) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified in Sections 5-1 and 5-2 or shall be discarded.

(ii) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(iii) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

(b) Food establishments without proper ware-washing facilities.

Food establishments that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables which have not been processed.

(c) Bulk Food Sections.

Food establishments with bulk food sections shall have facilities or equipment conveniently available, either in a servicing area or in place to provide for proper cleaning and sanitizing of all food-contact surfaces including product modules, lids and dispensing utensils.

(d) Single-Service and Single-Use Articles, Required Use.\*

If approved by the UDAF a food establishment without facilities specified in Sections 5-6 and 5-7 for cleaning and sanitizing kitchenware and tableware may provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by the consumer.

(e) Single-Service and Single-Use Articles, Reuse Limitation.

(i) Single-service and single-use articles may not be reused. Articles such as number 10 cans, aluminum pie pans, egg containers, bread wrappers, and similar articles into which food has been packaged by the manufacturers shall not be used as single service or multi-use articles.

(ii) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than 1 inch protruding from the chilled dispensing head.

(f) Shells, Use Limitation.

Mollusk and crustacea shells may not be used more than once as serving containers.

5-6. Cleaning of Equipment and Utensils.

(1) Objective.

Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils.\*

(i) Equipment food-contact surfaces and utensils shall be clean to sight and touch.

(ii) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(iii) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(2) Frequency.

Equipment Food-Contact Surfaces and Utensils.\*

(i) Equipment food-contact surfaces and utensils shall be cleaned:

(A) Before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry, except as specified in Subsection (ii) of this section;

(B) Each time there is a change from working with raw foods to working with ready-to-eat foods;

(C) Between uses with raw fruits or vegetables and with potentially hazardous food;

(D) Before using or storing a food temperature measuring device; and

(E) At any time during the operation when contamination may have occurred.

(ii) Subsection (ii)(A) of this section does not apply if raw animal foods that require cooking temperatures specified under Subsection 4-4(1)(a)(i)(C) are prepared after foods that require cooking temperatures specified under Subsections 4-4(1)(a)(i)(A) and (B) and 4-4(1)(a)(ii).

(iii) If used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every 4 hours, except as specified in Subsection (iv) of this section.

(iv) Surfaces of utensils and equipment contacting food may be cleaned less frequently than every 4 hours if:

(A) In storage, containers of potentially hazardous food and their contents are maintained at temperatures specified under Chapter 4 and the containers are cleaned when they are empty;

(B) Utensils and equipment are used to prepare food in a refrigerated room that maintains the utensils, equipment, and food under preparation at temperatures specified under Chapter 4 and the utensils and equipment are cleaned at least every 24 hours;

(C) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified under Chapter 4, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;

(D) Temperature measuring devices are maintained in contact with foods, such as when left in a container of deli food or in a roast, held at temperatures specified under Chapter 4; or

(E) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues; or

(F) The cleaning schedule is approved based on consideration of:

(I) Characteristics of the equipment and its use.

(II) The type of food involved.

(III) The amount of food residue accumulation, and

(IV) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease.

(v) Except when dry cleaning methods are used as specified under Section 5-6(3)(a), surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:

(A) At any time when contamination may have occurred;

(B) At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(C) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers;

(D) Equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, beverage dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(I) At a frequency specified by the manufacturer, or

(II) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(b) Cooking and Baking Equipment.

(i) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified under Subsection 5-6(2)(iv)(E).

(ii) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

(c) Nonfood-Contact Surfaces.

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

(3) Methods.

(a) Dry Cleaning.

(i) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.

(ii) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

(b) Precleaning.

(i) Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

(ii) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

(c) Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(i) Exposes the items to the unobstructed spray from all cycles; and

(ii) Allows the items to drain.

(d) Wet Cleaning.

(i) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application

of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

(ii) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

(e) Washing, Procedures for Alternative Manual Warewashing Equipment.

If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in Subsection 5-3(1)(b)(iii) in accordance with the following procedures:

(i) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;

(ii) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and

(iii) Equipment and utensils shall be washed as specified under Subsection 5-6(3)(d)(i).

(f) Rinsing Procedures.

Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

(i) Use of a distinct, separate water rinse after washing and before sanitizing if using:

(A) A 3-compartment sink,

(B) Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified under Subsection 5-(1)(b)(iii)(A), or

(C) A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

(ii) Use of a detergent-sanitizer if using:

(A) Alternative warewashing equipment as specified in Subsection 5-3(1)(b)(iii) that is approved for use with a detergent-sanitizer, or

(B) A warewashing system for CIP equipment;

(iii) If using a warewashing machine that does not recycle the sanitizing solution as specified under Subsection (iv) of this section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:

(A) Integrated in the application of the sanitizing solution, and

(B) Wasted immediately after each application; or

(iv) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

(g) Returnables, Cleaning for Refilling.\*

(i) Returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant, except as specified in Subsections (ii) and (iii) of this section.

(ii) A food-specific container for beverages may be refilled at a food establishment if:

(A) Only a beverage that is not a potentially hazardous food is used as specified under Subsection 4-3(4)(g);

(B) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;

(C) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided;

(D) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and

(E) The container is refilled by:

(I) An employee of the food establishment, or

(II) The owner of the container if the beverage system includes a contamination-free transfer process that can not be bypassed by the container owner.

5-7. Sanitization of Equipment and Utensils.

(1) Objective.

Food-Contact Surfaces and Utensils.\*

Equipment food-contact surfaces and utensils shall be sanitized.

(2) Frequency.

Before Use After Cleaning.

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

(3) Methods.

Hot Water and Chemical.\*

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

(i) Hot water manual operations by immersion for at least 30 seconds in water whose temperature is maintained at 77 degrees C (170 degrees F) or above.

(ii) Hot water mechanical operations by being cycled through equipment that is set up as specified under Sections 5-5(1)(d) and 5-5(1)(h) and (i) and achieving a utensil surface temperature of 71 degrees C (160 degrees F) as measured by an irreversible registering temperature indicator; or

(iii) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under Section 5-51(m) by providing:

(A) An exposure time of at least 10 seconds for a chlorine solution.

(B) An exposure time of at least 30 seconds for other chemical sanitizer solutions, or

(C) An exposure time used in relationship with a combination of temperature, concentration, and pH that yields sanitization.

5-8. Laundering.

(1) Clean Linens.

Clean linens shall be free from food residues and other soiling matter.

(2) Specifications.

(i) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

(ii) Cloth gloves specified in Subsection 4-3(4)(e)(iv) shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

(iii) Linens that are used for food service and cloth napkins shall be laundered between each use.

(iv) Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

(v) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(3) Methods.

(a) Storage of Soiled Linens.

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

(b) Mechanical Washing.

(i) Linens shall be mechanically washed, except as specified in Subsection (ii) of this section.

(ii) In food establishments in which only wiping cloths are laundered as specified in Subsection 5-3(1)(e)(ii), the wiping cloths may be laundered in a mechanical washer, a sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under Section 5-5(1)(c).

(c) Use of Laundry Facilities.

(i) Laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment, except as specified in Subsection (ii) of this section.

(ii) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

5-9. Protection of Clean Items.

(1) Drying.

(a) Equipment and Utensils, Air-Drying Required.

After cleaning and sanitizing, equipment and utensils:

(i) Shall be air-dried or used after adequate draining as specified in Subsection (a) of 21 CFR 178.1010 Sanitizing solutions, before contact with food; and

(ii) May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

(b) Wiping Cloths, Air-Drying Locations.

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in Subsection 5-3(1)(e)(ii) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under Section 5-5(1)(m).

(2) Lubricating and Reassembling.

(a) Food-Contact Surfaces.

Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces. The use of food-grade lubricants is acceptable.

(b) Equipment.

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(3) Storing.

(a) Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.

(i) Except as specified in Subsection (iv) of this section, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

(A) In a clean, dry location;

(B) Where they are not exposed to splash, dust, or other contamination; and

(C) At least 15 cm (6 inches) above the floor.

(ii) Clean equipment and utensils shall be stored as specified under Subsection (i) of this section and shall be stored:

- (A) In a self-draining position that permits air drying; and
- (B) Covered or inverted.

(iii) Single-service and single-use articles shall be stored as specified under Subsection (i) of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(iv) Items that are kept in closed packages may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as provided under Section 5-2(4)(u).

(b) Prohibitions.

(i) Except as specified in Subsection (ii) of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:

- (A) In locker rooms;
- (B) In toilet rooms;
- (C) In garbage rooms;
- (D) In mechanical rooms;
- (E) Under sewer lines that are not shielded to intercept potential drips;

(F) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

- (G) Under open stairwells; or
- (H) Under other sources of contamination.

(ii) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

(4) Handling.

(a) Kitchenware and Tableware.

(i) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food and lip-contact surfaces is prevented.

(ii) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(iii) Except as specified under Subsection (ii) of this section, single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

(b) Soiled and Clean Tableware.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

(c) Preset Tableware.

Tableware may be preset if:

(i) It is protected from contamination by being wrapped, covered, or inverted;

(ii) Exposed and unused settings are removed when a consumer is seated; or

(iii) Exposed and unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.

#### **R70-530-6. Water, Plumbing and Waste.**

6-1. Water.

(1) Source.

(a) Approved System.\*

Drinking water shall be obtained from an approved source that is:

(i) A "community water systems" which is a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents; or

(ii) A "non-transient, non-community water system" which is a public water system that is not a community water system and that regularly serves at least 25 of the same persons over a six months per year.

(iii) A "non-community water system" which is a public drinking water system that is not a community water system or a non-transient, non-community water system.

(iv) A private water system that is constructed, maintained, and operated according to R309 101-113, Rules for Public Drinking Water Systems.

(b) System Flushing and Disinfection.\*

A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

(c) Bottled Drinking Water.\*

Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129 - Processing and Bottling of Bottled Drinking Water.

(2) Quality.

(a) Standards.\*

Except as specified under Section (b) of this part:

(i) Water from a public water system shall meet R309 101-113.

(ii) Water from a private water system shall meet Utah's drinking water quality standards as set forth in R309.

(b) Nondrinking Water.\*

(i) The use of a nondrinking water supply shall be approved by the regulatory authority; and

(ii) Nondrinking water shall be used only for non-culinary purposes such as air conditioning, nonfood equipment cooling, fire protection, and irrigation.

(iii) A person shall not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.

(c) Sampling.

Water from a non-community water system, a non-transient, non-community water system, or a private water system, shall be sampled as required by R309-103 Drinking Water: Water Quality Maximum Contamination Levels (MCLs) and R309-104 Drinking Water: Monitoring, Reporting, and Public Notification and local drinking water quality regulations.

(d) Sample Report.

The most recent sample report of the non-community water system, non-transient, non-community water system or private water system shall be retained on file in the food establishment or the report shall be maintained as specified by the Utah Department of Agriculture and Food (UDAF).

(3) Quantity and Availability.

(a) Capacity.\*

The water source and system shall be of sufficient capacity to meet the water demands of the food establishment.

(b) Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under Subsections 6-1(2)(4)(b)(i) and (ii) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

(c) Hot Water.

(i) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment, and

(ii) Hot and cold water shall be provided through tempered mixing faucets at all handwashing lavatories, food preparation sinks, warewashing sinks, service sinks, or curbed cleaning facilities.

(4) Distribution, Delivery, and Retention.(a) System.

Water shall be received from the source through the use of:

(i) An approved public water main; or

(ii) One or more of the following that shall be constructed, maintained, and operated according to law:

(A) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,

(B) Water transport vehicles, and

(C) Water containers.

(b) Alternative Water Supply.

Water from an approved source shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

(i) A supply of containers of commercially bottled drinking water;

(ii) One or more closed portable water containers;

(iii) An enclosed vehicular water tank;

(iv) An on-premises water storage tank; or

(v) Piping, tubing, or hoses connected to an adjacent approved source.

6-2. Plumbing System.(1) Materials.Approved.\*

(i) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to the Utah State Plumbing Code.

(ii) A water filter shall be made of safe materials.

(2) Design, Construction, and Installation.(a) Approved System and Cleanable Fixtures.\*

(i) A plumbing system shall be designed, constructed, installed, and operated according to the Utah State Plumbing Code.

(ii) A plumbing fixture such as a handwashing lavatory, toilet, or urinal shall be easily cleanable.

(b) Handwashing Lavatory, Water Temperature, and Flow.

(i) A handwashing lavatory shall be equipped to provide water at a temperature of at least 43 degrees C (110 degrees F) within 10 seconds, through a mixing valve or combination faucet.

(ii) A steam mixing valve may not be used at a handwashing lavatory.

(iii) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(c) Backflow Prevention, Air Gap.\*

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch).

(d) Backflow Prevention Device, Design Standard.

A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineers (ASSE) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

(e) Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

(3) Numbers and Capacity.(a) Handwashing Lavatory.\*

(i) Except as specified in Subsection (ii) and (iii) of this section, at least 1 handwashing lavatory, a number of handwashing lavatories necessary for their convenient use by employees in areas specified under Section 6-2(4)(a), and not fewer than the number of handwashing lavatories required by law shall be provided.

(ii) An adequate number of handwashing stations shall be provided for each temporary food establishment to include: a minimum of one handwashing station equipped with one enclosed container with a spigot, soap, paper towels, and a collection container for waste water.

(iii) If approved by the regulatory authority, when food exposure is limited and handwashing lavatories are not conveniently available, such as in some mobile or temporary food establishment or at some vending machine location, employees may use chemically treated towelettes for handwashing.

(b) Toilets and Urinals.\*

At least 1 toilet and not fewer than the number of toilets required by law shall be provided. In accordance with law, urinals may be substituted for toilets if more than the required minimum number of toilets are provided.

(c) Service Sink.

At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(e) Backflow Prevention Device, When Required.\*

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bib if a hose is attached or on a hose bib if a hose is not attached and backflow prevention is required by law, by:

(i) Providing an air gap as required by the Utah State Plumbing Code; or

(ii) Installing an approved backflow prevention device as required by the Utah State Plumbing Code.

(iii) Water heater drains and clothes washers are exempt from the requirements of this section.

(j) Backflow Prevention Device, Carbonator.\*

A double check valve shall be installed so that it is upstream from a carbonating device and downstream from any copper in the water supply line.

(4) Location and Placement.(a) Handwashing Lavatory.\*A handwashing lavatory shall be located:(i) In, or immediately adjacent to, toilet rooms and;(ii) To allow convenient use by employees in food processing, food dispensing, and warewashing areas. Convenient means:(A) In the food processing area where it shall be accessible to employees at all times; or,(B) In large food manufacturing areas or lines, handwashing lavatories shall be located in traffic areas, such as hallways leading into the processing area, and throughout the facility where food is handled.(b) Backflow Prevention Device, Location.A backflow prevention device shall be located so that it may be serviced and maintained.(c) Conditioning Device, Location.A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.(5) Operation and Maintenance.(a) Using a Handwashing Lavatory.(i) A handwashing lavatory shall be maintained so that it is accessible at all times for employee use.(ii) A handwashing lavatory may not be used for purposes other than handwashing.(b) Prohibiting a Cross Connection.\*(i) Except as allowed under 9 CFR 308.3(d) for firefighting, a person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.(ii) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.(c) Scheduling Inspection and Service for a Water Treatment Device or Backflow Preventer.(i) Water treatment devices shall be scheduled for inspection and service, in accordance with manufacturer's recommendations and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.(ii) The premise owner or responsible person shall have the backflow prevention assembly tested by a certified backflow assembly tester at the time of installation, repair, or relocation and at least on an annual schedule or more often when required by the regulatory authority.(d) Water Reservoir of Fogging Devices, Cleaning.\*(i) A reservoir that is used to supply water to a device such as a produce fogger shall be:(A) Maintained in accordance with manufacturer's specifications; and(B) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under Subsection (ii) of this section, whichever is more stringent.(ii) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:(A) Draining and complete disassembly of the water and aerosol contact parts;(B) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;(C) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and(D) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 ppm hypochlorite solution.(e) System Maintained in Good Repair.\*A plumbing system shall be:(i) Repaired according to law; and(ii) Maintained in good repair.6-3. Mobile Water Tank and Mobile Food Establishment Water Tank(1) Materials.Approved.Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:(i) Safe;(ii) Durable, corrosion-resistant, and nonabsorbent; and(iii) Finished to have a smooth, easily cleanable surface.(2) Design and Construction.(a) Enclosed System, Sloped to Drain.A mobile water tank shall be:(i) Enclosed from the filling inlet to the discharge outlet; and(ii) Sloped to an outlet that allows complete drainage of the tank.(b) Inspection and Cleaning Port, Protected and Secured.If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:(i) Flanged upward at least 13 mm (1/2 inch); and(ii) Equipped with a port cover assembly that is:(A) Provided with a gasket and a device for securing the cover in place, and(B) Flanged to overlap the opening and sloped to drain.(c) "V" Type Threads, Use Limitation.A fitting with "v" type threads on a water tank inlet or outlet may be allowed only when a hose is permanently attached.(d) Tank Vent, Protected.If provided, a water tank vent shall terminate in a downward direction and shall be covered with:(i) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or(ii) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.(e) Inlet and Outlet, Sloped to Drain.(i) A water tank and its inlet and outlet shall be sloped to drain.(ii) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.(f) Hose, Construction and Identification.A hose used for conveying drinking water from a water tank shall be:(i) Safe;(ii) Durable, corrosion-resistant, and nonabsorbent;(iii) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;(iv) Finished with a smooth interior surface; and(v) Clearly and durably identified as to its use if not permanently attached.

(3) Numbers and Capacity.(a) Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

(b) Protective Equipment or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective equipment or device shall be provided for a water inlet, outlet, and hose.

(c) Mobile Food Establishment Tank Inlet.

A mobile food establishment's water tank inlet shall be:

(i) 19.1 mm (3/4 inch) in inner diameter or less; and

(ii) Provided with a hose connection of a size or type that will prevent its use for any other service.

(4) Operation and Maintenance.(a) System Flushing and Disinfection.\*

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

(b) Using a Pump and Hoses.

(i) Unloading water or liquid food products shall be done through a hose port or in such a manner that the processing area is protected against contamination.

(ii) A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(c) Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected.

(d) Tank, Pump, and Hoses, Dedication.

(i) A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose, except as specified in Subsection (ii) of this section.

(ii) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized after each use.

6-4. Sewage, Other Liquid Waste, and Rainwater(1) Mobile Holding Tank(a) Capacity and Drainage.

A waste water holding tank in a mobile food establishment shall be:

(i) Sized 15 percent larger in capacity than the water supply tank; and

(ii) Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

(2) Retention, Drainage, and Delivery(a) Establishment Drainage System.

Food establishment drainage systems, including grease traps, that convey sewage shall be sized and installed according to the Utah State Plumbing Code.

(b) Backflow Prevention.\*

(i) A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed, except as specified in Subsection (v) of this section.

(ii) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain

and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(iii) Equipment which is used for the storage or holding of food or drink, shall not have a drain in direct connection to a sewage line.

(iv) Warewashing or culinary sinks in any food preparation room which is used for soaking, washing, or preparing food shall not have a drain in direct connection to a sewage line.

(v) Three compartment sinks in dishwashing rooms, if not used for food preparation, may be directly connected to the sewer.

(c) Grease Trap.

If required, a grease trap shall be located to be easily accessible for cleaning.

(d) Conveying Sewage.\*

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

(e) Removing Mobile Food Establishment Wastes.

Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

(f) Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

(3) Disposal System.(a) Approved Sewage Disposal System.\*

Sewage shall be disposed through an approved facility that is:

(i) A public sewage treatment plant; or

(ii) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(b) Other Liquid Wastes and Rainwater.

Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

6-5. Refuse, Recyclables, and Returnables.(1) Facilities on the Premises.(a) Indoor Storage Area.

(i) If located within the food establishment, a storage area for refuse, recyclables, and returnables shall be non-absorbent, smooth and cleanable.

(ii) Studs, joist, and rafters may not be exposed in areas subject to moisture.

(b) Outdoor Storage Surface.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

(c) Outdoor Enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

(d) Receptacles.

(i) Equipment and receptacles for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent, except as specified in Subsection (ii) of this section.

(ii) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment or within closed outside receptacles.

(e) Receptacles in Vending Machines.

A refuse receptacle may not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

(f) Outside Receptacles.

(i) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

(ii) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the equipment is not installed flush with the base pad, under the unit.

(g) Storage Areas, Rooms, and Receptacles, Capacity and Availability.

(i) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

(ii) A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

(iii) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

(h) Toilet Room Receptacle, Covered.

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

(i) Cleaning Equipment and Supplies.

(i) Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles for refuse, recyclables, and returnables, except as specified in Subsection (ii) of this section.

(ii) If approved by the regulatory authority, off-premises-based cleaning services may be used if on-premises cleaning equipment and supplies are not provided.

(2) Location and Placement.

Storage Areas, Redeeming Machines, Equipment, and Receptacles, Location.

(i) An area designated for refuse, recyclables, returnables, and redeeming machines for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health nuisance is not created, except as specified in Subsection (ii) of this section.

(ii) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health nuisance is not created.

(iii) The location of equipment and receptacles for refuse, recyclables, and returnables may not create a public health nuisance or interfere with the cleaning of adjacent space.

(3) Operations and Maintenance.

(a) Storing Refuse, Recyclables, and Returnables.

Refuse, recyclables, and returnables shall be stored in equipment or refuse receptacles so that they are inaccessible to insects and rodents.

(b) Areas, Enclosures, and Receptacles, Good Repair.

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(c) Outside Storage Prohibitions.

(i) Refuse receptacles not meeting the requirements specified under Subsection 6-5(1)(d)(i) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside, except as specified in Subsection (ii) of this section.

(ii) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(d) Covering Receptacles.

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

(i) Inside the food establishment if the equipment and receptacles:

(A) Contain food residue and are not in continuous use; or

(B) After they are filled; and

(ii) With tight-fitting lids or doors if kept outside the food establishment.

(e) Using Drain Plugs.

Drains in equipment and receptacles for refuse, recyclables, and returnables shall have drain plugs in place.

(f) Maintaining.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items and clean.

(g) Cleaning Receptacles.

(i) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of to an approved sewage disposal system.

(ii) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

(4) Removal.

(a) Frequency.

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

(b) Receptacles or Vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

(i) Portable receptacles that are constructed and maintained according to law; or

(ii) A transport vehicle that is constructed, maintained, and operated according to law.

(5) Facilities for Disposal and Recycling.

Community or Individual Facility.

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an

approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

**R70-530-7. Physical Facilities.**

7-1. Materials for Construction and Repair.

(1) Indoor Areas.

Surface Characteristics.

(i) Walls, Wall Coverings, and Ceilings.

Except as specified in Subsection (D) of this section, materials for indoor walls, wall coverings, and ceiling surfaces under conditions of normal use shall be designed, constructed, and installed so that they are:

(A) Smooth, light-colored, durable, and easily cleanable for areas where food establishment operations are conducted.

(B) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

(C) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

(D) In a temporary food establishment:

(I) If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable materials approved by the regulatory authority that are effectively treated to control dust and mud; and

(II) Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

(ii) Floors.

(A) Floors and floor coverings of all food preparation, food storage, and warewashing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl asbestos or plastic tile, or tight-fitting wood impregnated with plastic, and shall be maintained in good repair. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(B) Floors which are water flushed or which receive discharges of water or other fluid wastes or are in areas where pressure spray methods for cleaning are used, shall be provided with properly installed trapped drains. Such floors shall be constructed only of sealed concrete, terrazzo, quarry tile, ceramic tile, or similar materials and shall be graded to drain. The floor and wall junctures shall be coved and sealed.

(C) In all establishments utilizing concrete, terrazzo, quarry tile, ceramic tile, or similar flooring materials, or where water flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture between walls and floors shall be coved so as not to present an open seam of more than 1/32 inch (1 mm).

(iii) Floor Carpeting, Restrictions and Installation.

(A) Carpeting may not be installed as a floor covering in food preparation areas, walk-in refrigerator, warewashing areas, food

storage, and toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas subject to moisture.

(B) Carpeting may be installed as a floor covering if it is:

(I) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(II) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

(iv) Prohibited floor covering.

Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used as floor coverings; however, these materials may be used in amounts necessary for immediate spot clean-up of spills or drippage on floors.

(v) Mats and duckboards.

Mats and duckboards shall be of nonabsorbent, grease resistant materials, and of such size, design, and construction to facilitate cleaning and shall be maintained clean and in good repair.

(2) Outdoor Areas.

Surface Characteristics.

(i) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(ii) Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.

7-2. Design, Construction, and Installation.

(1) Cleanability.

(a) Floors, Walls, and Ceilings, Utility Lines.

(i) Utility service lines and pipes may not be unnecessarily exposed.

(ii) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(iii) Exposed horizontal utility service lines and pipes may not be installed on the floor.

(b) Walls and Ceilings, Attachments.

(i) Except as specified in Subsection (ii) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

(ii) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

(c) Walls and Ceilings, Studs, Joists, and Rafters.

Studs, joists, and rafters may not be exposed in areas subject to moisture. This requirement does not apply to temporary food establishments.

(2) Functionality.

(a) Light Bulbs, Protective Shielding.

(i) Except as specified in Subsection (ii) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

(ii) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

(A) The integrity of the packages can not be affected by broken glass falling onto them; and

(B) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(iii) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

(b) Heating, Ventilation, Air Conditioning System Vents.

Heating, ventilation, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment, or utensils.

(c) Insect Control Devices, Design and Installation.

(i) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(ii) Insect control devices shall be installed so that:

(A) The devices are not located over a food preparation area, and

(B) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(d) Toilet Rooms, Enclosed.

(i) A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door. This requirement does not apply to a toilet room that is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall.

(ii) Toilet rooms shall not open directly into a processing area. The requirements of this section can be met in the following manner:

(A) Placing two (2) self-closing doors between the processing area and the toilet room; or

(B) Having the toilet room open into another area, such as a hallway or storage area, with a distance of at least 15 feet between the door of the toilet room and the processing area.

(e) Outer Openings, Protected.

(i) Except in temporary food establishments, openings to a portion of a building that is not part of the food establishment or to the outdoors shall be protected against the entry of insects and rodents by:

(A) Filling or closing holes and other gaps along floors, walls, and ceilings,

(B) Closed, tight-fitting windows, and

(C) Solid self-closing, tight-fitting doors; or

(ii) Subsection (i) of this section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(iii) Except as specified in Subsections (ii) and (iv) of this section, if the windows or doors of a food establishment, or of a

larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and solid doors, as specified under Subsection (i) of this section, the openings shall be protected against the entry of insects and rodents by:

(A) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens,

(B) Properly designed and installed air curtains, or

(C) Other effective means.

(iv) Subsection (iii) of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

(f) Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(g) Outdoor Food Vending Areas, Overhead Protection.

If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not meet this requirement.

(h) Outdoor Servicing Areas, Overhead Protection.

Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

(i) Outdoor Walking and Driving Surfaces, Graded to Drain.

Exterior walking and driving surfaces shall be graded to drain.

(j) Outdoor Refuse Areas, Curbed and Graded to Drain.

Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

(k) Living areas.

(i) No operation of a food establishment shall be conducted in any room used as living or sleeping quarters.

(ii) An establishment handling only packaged food products may be connected to living or sleeping quarters as long as they are separated by complete partitioning and solid, self-closing doors.

(iii) No establishment processing, preparing, packaging, or manufacturing food products shall have access to living or sleeping quarters through a door, window or other entrance.

7-3. Numbers and Capacities.

(1) Handwashing Provisions.

(a) Handwashing Cleanser Availability.

Each handwashing lavatory or group of 2 adjacent lavatories shall have available a supply of hand cleaning liquid, powder, or bar soap.

(b) Hand Drying Provision.

Each handwashing lavatory or group of adjacent lavatories shall be provided with:

(i) Individual, disposable towels;

(ii) A continuous towel system that supplies the user with a clean towel; or

(iii) A heated-air hand drying device.

(c) Handwashing Aids and Devices, Use Restrictions.

A sink used for food preparation or utensil washing, or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing lavatory.

(d) Disposable Towels, Waste Receptacle.

A handwashing lavatory or group of adjacent lavatories that is provided with disposable towels shall be provided with a waste receptacle.

(e) Minimum Number.

Handwashing lavatories shall be conveniently located and provided as specified under 6-2(3)(a).

(2) Toilet Provisions.(a) Minimum Number.

Toilets and urinals shall be provided as specified under 6-2(3)(b).

(b) Toilet Tissue, Availability.

A supply of toilet tissue shall be available at each toilet.

(3) Lighting.Intensity.

The light intensity shall be:

(i) At least 110 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas; and in other areas and rooms during periods of cleaning.

(ii) At least 220 lux (20 foot candles):

(A) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged food are sold or offered for consumption;

(B) Inside equipment such as reach-in and under-counter refrigerators;

(C) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage; and in toilet rooms; and

(iii) At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

(4) Ventilation.Mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

(5) Dressing Areas and Lockers.Designation.

(i) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

(ii) Lockers or other suitable facilities shall be provided for the clean and orderly storage of employees' clothing and other possessions.

(6) Service Sinks

A service or curbed cleaning facility shall be provided.

7-4. Location and Placement(1) Toilet Rooms.Convenience and Accessibility.

Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.

(2) Employee Accommodations.Designated Areas.

(i) Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

(ii) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment,

utensils, linens, and single-service and single-use articles can not occur.

(3) Distressed Merchandise.Segregation and Location.

Products that are held by the owner or manager for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

(4) Refuse, Recyclables, and Returnables.

Units, receptacles, and areas designated for storage or refuse and recyclables and returnable containers shall be located as specified under Section 6-5(2).

7-5. Operation and Maintenance.Premises, Structures, Attachments, and Fixtures-Methods(a) Repairing.

The physical facilities shall be maintained in good repair.

(b) Cleaning, Frequency and Restrictions.

(i) The physical facilities shall be cleaned as often as necessary to maintain cleanliness.

(ii) Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

(c) Cleaning Floors, Dustless Methods.

(i) Except as specified in Subsection (ii) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(ii) Spills or drizzle on floors that occur between normal floor cleaning times may be cleaned:

(A) Without the use of dust-arresting compounds; and

(B) In the case of liquid spills or drizzle, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

(d) Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

(i) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(ii) If vented to the outside, ventilation systems may not create a public health nuisance or unlawful discharge.

(e) Cleaning Maintenance Tools, Preventing Contamination.\*

Food preparation sinks, handwashing lavatories, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

(f) Drying Mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

(g) Maintaining and Using Handwashing Lavatories.

Handwashing lavatories shall be kept clean, and maintained and used as specified under Section 6-2(5)(a).

(h) Closing Toilet Room Doors.

Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(i) Using Dressing Rooms and Lockers.

(i) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

(ii) Lockers or other suitable facilities shall be used for the clean and orderly storage of employee clothing and other possessions.

(j) Controlling Pests.\*

(i) The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises by:

(A) Routinely inspecting incoming shipments of food and supplies;

(B) Routinely inspecting the premises for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or extermination by approved methods; and

(D) Eliminating harborage conditions.

(i) Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

(j) Storing Maintenance Equipment.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

(i) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

(ii) Stored in an orderly manner that facilitates cleaning of the maintenance equipment storage location.

(k) Maintaining Premises, Unnecessary Items and Litter.

The premises shall be free of:

(i) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

(ii) Litter.

(l) Prohibiting Animals.\*

(i) Live animals may not be allowed on the premises of a food establishment, except as specified in Subsections (ii) and (iii) of this section.

(ii) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result:

(A) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(B) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(C) In areas that are not used for food preparation such as dining and sales areas, support animals such as guide dogs that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee or person, and are not allowed to be on seats or tables; and

(D) Pets in the common dining areas of group residences at times other than during meals if:

(I) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,

(II) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

(III) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(iii) Live or dead fish bait shall be stored so that contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result.

**R70-530-8. Poisonous or Toxic Materials.**

8-1. Labeling and Identification.

(1) Original Containers.

Identifying Information, Prominence.\*

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

(2) Working Containers.

Common Name.\*

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

8-2. Labeling and Identification.

(1) Storage.

Separation.\*

Poisonous or toxic materials shall be stored so they may not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(i) Separating the poisonous or toxic materials by spacing or partitioning; and

(ii) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This Subsection does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(2) Presence and Use.

(a) Restriction.\*

(i) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishments.

(ii) Subsection (i) of this section does not apply to packaged poisonous or toxic materials that are for retail sale.

(b) Conditions of Use.\*

Poisonous or toxic materials shall be:

(i) Used according to:

(A) Law and this rule.

(B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment.

(C) The conditions of certification, if certification is required, for use of the pest control materials, and

(D) Additional conditions that may be established by the regulatory authority; and

(ii) Applied so that:

(A) A hazard to employees or other persons is not constituted; and

(B) Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by:

(I) Removing the items,  
(II) Covering the items with impermeable covers, or  
(III) Taking other appropriate preventive actions, and  
(IV) Cleaning and sanitizing equipment and utensils after the application.

(iii) Restricted and non-restricted-use pesticides for commercial purposes shall be applied by a licensed commercial pesticide applicator.

(iv) A license is required for private and non-commercial pesticide applicators only if they use restricted-use pesticides.

(3) Container Prohibitions.

Poisonous or Toxic Material Containers.\*

A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

(4) Chemicals.

(a) Sanitizers, Criteria.\*

Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in 21 CFR 178.1010 Sanitizing solutions.

(b) Chemicals for Washing Fruits and Vegetables, Criteria.\*

Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

(c) Boiler Water Additives, Criteria.\*

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310 Boiler water additives.

(d) Drying Agents, Criteria.\*

Drying agents used in conjunction with sanitization shall:

(i) Contain only components that are listed as one of the following:

(A) Generally recognized as safe for use in food as specified in 21 CFR 182 - Substances Generally Recognized As Safe, or 21 CFR 184 - Direct Food Substances Affirmed As Generally Recognized as Safe;

(B) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized As Safe;

(C) Approved for use as a drying agent under a prior sanction specified in 21 CFR 181 - Prior-Sanctioned Food Ingredients;

(D) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Sections 175-178;

(E) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles; and

(ii) When sanitization is with chemicals, the approval required in Subsection (i)(C) or (i)(E) of this section or the regulation as an indirect food additive required in Subsection (i)(D) of this section, shall be specified for use with chemical sanitizing solutions.

(e) Incidental Food Contact, Criteria.\*

Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

(f) Restricted Use Pesticides, Criteria.\*

Restricted use pesticides specified under 8-2(2)(b) shall meet the requirements specified in 40 CFR 152.1 Classification of Pesticides.

(g) Rodent Bait Stations.

Rodent bait shall be contained in a covered, tamper-resistant bait station and shall not be used in food processing areas.

(h) Tracking Powders, Pest Control and Monitoring.\*

(i) A tracking powder pesticide may not be used in a food establishment.

(ii) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-serve, and single-use articles.

(i) Restriction and Storage.\*

(i) Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This Section does not apply to medicines that are stored or displayed for retail sale.

(ii) Medicines that are in a food establishment for the employees' use shall be labeled as specified under Section 8-1(1) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(j) Refrigerated Medicines, Storage.\*

Medicines belonging to employees that require refrigeration and are stored in a food refrigerator shall be:

(i) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of employees' medicines; and

(ii) Located on the lowest shelf.

(k) Storage.\*

First aid supplies that are in a food establishment for the employees' use shall be:

(i) Labeled as specified under Section 8-1(1); and

(ii) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

(l) Storage.

Except as specified under 8-2(4)(i) and 8-2(4)(k), employees shall store their other personal care items as specified under Subsection 7-3(5)(ii).

8-3. Stock and Retail Sale.

Separation.\*

Poisonous or toxic materials shall be stored and displayed for retail sale so they may not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(i) Separating the poisonous or toxic materials by spacing or partitioning; and

(ii) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

**R70-530-9. Special Requirements.**

9-1. General.

In addition to all other applicable requirements of this rule, the following requirements shall pertain to the specific processors referenced in this chapter.

9-2. Rabbit Processors.

Special Processing Requirements.

(a) Separate Rooms.

The killing and skinning area shall be separated by a self-closing door from the packaging and processing rooms.

(b) Pelts.

Pelts shall not be stored in the slaughtering or packaging rooms, or in rooms used for storing equipment or supplies.

(c) Hutches and Rearing Pens.

(i) If hutches or rearing pens are located on the same premises as the slaughtering and processing building, they must be so made and maintained as to constitute a suitable operation free of fly breeding and manure storing areas that may constitute a nuisance or health hazard.

(ii) Hutches and rearing pens shall not be located in the same building as the slaughtering and packaging rooms, or other food establishment operations.

9-3. Canneries.

(1) Low Acid Foods.

All low acid canning regulations adopted under authority of the Federal Food, Drug and Cosmetic Act are the low acid canning rules in this state. This specifically refers to the Code of Federal Regulations (CFR), 21 CFR 113 and 108 B and 108.35, and generally refers to any other cross-referenced or otherwise pertinent regulations in the CFR. Where state rules conflict or are more stringent than the federal requirements, the state rules shall have precedence.

(2) Acidified Foods.

All acidified foods regulations adopted under authority of the Federal Food, Drug and Cosmetic Act are the acidified food rules of this state. This specifically refers to 21 CFR 114 and 108 B, and 108.25, and generally refers to any other cross referenced or otherwise pertinent regulations in the Code of Federal Regulations. Where state rules conflict or are more stringent than the federal requirements, the state rules shall have precedence.

(3) Other canned or thermally processed foods.

All other foods not covered under (1) or (2) of this Section which are to be packaged into hermetically sealed containers shall be mechanically capped or sealed. However, this does not pertain to home canned foods which are for the owners and his family's personal use.

9-4. Bottling Plants.

Bottled Water.

(a) Source Development.

Bottled water sources, such as springs or wells, shall be developed so they are in compliance with R309 200-211.

(b) Bottled Water Standards and Plant Sanitation.

Bottled water shall meet the standards for quality, sanitation and plant construction, as outlined in 21 CFR 129 and 165. Where state rules are more stringent than the federal requirements, the state rules shall have precedence.

(c) Capping.

All bottled water operations shall use mechanical capping or closure devices.

(d) Caustics.

All bottling plants using caustics for the cleaning of multi-use containers shall use the caustics in conformance with the manufacturers' requirements, or according to the table listed below, and shall have available and use a caustic test kit to determine caustic strength.

TABLE 6

Combinations of Causticity, Time and Temperature of Equal Bactericidal Value, for Soaker Tank of Soaker-Type Bottle Washers

| Temperature, degrees |                                |      |      |      |      |      |      |  |
|----------------------|--------------------------------|------|------|------|------|------|------|--|
| F                    | 170                            | 160  | 150  | 140  | 130  | 120  | 110  |  |
| C                    | 77                             | 71   | 66   | 60   | 54   | 49   | 43   |  |
| Time In Minutes      | Concentration of NaOH, percent |      |      |      |      |      |      |  |
| 3                    | 0.57                           | 0.86 | 1.28 | 1.91 | 2.86 | 4.27 | 6.39 |  |
| 5                    | 0.43                           | 0.64 | 0.96 | .43  | 2.15 | 3.22 | .80  |  |
| 7                    | 0.36                           | 0.53 | 0.80 | 1.19 | 1.78 | 2.66 | 3.98 |  |

9-4. Ice Plants.

Special Requirements.

Ice plants using water for the manufacturing of ice must obtain their water from an approved source. If the water is obtained from a community water system as defined in Section 6-1(1)(a)(i) of this rule, no additional testing is necessary. If the water is obtained from other than a community water system, it must meet R309 101-113 standards for a non-community water system. This would include an initial test for inorganic chemicals, turbidity and microbiological standards. After the initial test, it would require testing for:

(a) Microbiological standards once in each quarter of the calendar year in which the plant operates January-March, April-June, July-September, October-December.

(b) Turbidity, sulfate and nitrate once each three years.

9-5. Produce Stands.

Special Requirements.

Produce stands shall be exempt from these requirements as long as they meet the following requirements:

(a) They operate on a seasonal basis.

(b) They do not cut, process, prepare or package produce products for sale.

(c) They handle only raw, unprocessed fruits and vegetables.

(d) They have access to toilet and handwashing facilities.

(e) All food products are stored at least 6 inches off the ground.

(f) The surroundings are maintained clean and free of litter and garbage.

9-7. Game Processors.

Special Requirements.

Retail meat establishments processing game shall meet the following requirements:

(a) Separate coolers shall be provided for game animals, and unpackaged, inspected meat products.

(b) Game animals shall not be processed at the same time as inspected meat, or other food products.

(c) After the completion of processing game animals, all equipment and utensils must be completely cleaned and sanitized prior to processing any inspected meat products or other food products.

9-8. Mobile Food Vendors.

Requirements.

Vendors who sell or offer for sale potentially hazardous food, such as meat, directly to the consumer out of a truck or other mobile vehicle shall:

(a) Be registered annually with/or under inspection by the UDAF.

(b) Supply UDAF with the following information:

(i) The name, mailing address, telephone number, driver's license of the owner or agent of the business.

(ii) Information specifying whether the business is owned by an association, corporation, individual, partnership, or other legal entity;

(iii) A statement signed by the owner or responsible party that:

(A) Attests to the accuracy of the information provided, and

(B) Affirms that the applicant will:

(I) Comply with this rule, and

(II) Allow the regulatory authority to inspect the vehicle.

(iv) Identify the source of the food products.

(v) Other information as required by the regulatory authority.

(c) The food product shall:

(i) Be stored and maintained at the temperature required in Chapter 4.

(ii) Be protected from contamination by keeping the equipment clean and the food product covered.

(d) The vehicle shall be kept clean.

9-9. Distressed and Salvaged Food.

(1) Definitions.

For the purpose of this Section:

(a) "Distressed merchandise" shall mean any food which has no label or which has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause, and which may have been rendered unsafe or unsuitable for human or animal consumption or use. "Distressed merchandise" shall not include food products that fail to meet manufacturer's or packer's specifications, but which do meet applicable federal and state regulations.

(b) "Non-salvageable merchandise" means "distressed merchandise," as defined in Subsection (a) of this section, which cannot be safely or practicably reconditioned.

(c) "Perishable" means that there exists a significant risk of spoilage or deterioration when a food has not been properly stored or handled.

(d) "Reconditioning" means any appropriate process or procedure by which distressed merchandise or salvageable merchandise can be brought into compliance with all the requirements of the Utah Wholesome Food Act, Title 4, Chapter 5 and R70-530, making it suitable for consumption or use as human or animal food.

(e) "Salvageable merchandise" includes:

(i) Food products that fail to meet manufacturer's or packer's specifications, but which do meet applicable federal and state regulations.

(ii) Foods sent to a salvage food establishment which are safe and wholesome and may need reconditioning.

(iii) Distressed merchandise, as defined in Subsection (a) of this section, which can be reconditioned to the satisfaction of the UDAF.

(iv) Food that has been donated to a charitable food organization under the Utah Charitable Food Act, Title 4, Chapter 34.

(f) "Salvage processing facility" means a food establishment engaged in the business of reconditioning or by other means salvaging distressed or salvageable merchandise for human or animal consumption or use.

(g) "Salvage dealer" means any person who is engaged in selling or distributing salvaged merchandise.

(h) "Salvage Supplier" means any person who transfers distressed merchandise to a salvage processor or dealer.

(2) Notification of the Utah Department of Agriculture and Food

Emergency Occurrences.

(i) The person in charge of a food establishment that is affected by a fire, flood, extended power outage, or a similar significant occurrence that creates a reasonable probability that food in the food establishment may have been contaminated or that the temperature level of food which is in a potentially hazardous form may have caused that food to become hazardous to health, shall take such action as is necessary to protect the public health and shall promptly notify the regulatory authority of the emergency.

(ii) If emergency removal of distressed merchandise is required, notice to the UDAF shall be made as soon thereafter as possible. No interstate movement of known distressed merchandise shall be made without prior approval of the UDAF and the responsible USDA, FDA, or State agency, in the State to receive the merchandise.

(iii) It shall be the duty of the salvage distributor or manager of the salvage processing facility to make contact with the UDAF within forty-eight (48) hours whenever distressed merchandise subject to the provisions of this rule is obtained.

(3) Protection of Distressed and Salvaged Merchandise.

(a) Contamination Protection.

Distressed merchandise shall be moved from the site of a fire, flood, sewer backup, wreck or other cause as expeditiously as possible after compliance with Section (2) so as not to become putrid, rodent or insect harborages, or otherwise a menace to public health. All distressed and salvageable merchandise of a perishable nature shall, prior to the reconditioning, be transported only in vehicles provided with sufficient refrigeration or freezing capabilities, if necessary, for product maintenance.

(b) Segregation of Merchandise.

All salvageable merchandise shall be promptly sorted and segregated from non-salvageable merchandise to prevent further contamination of the merchandise to be reconditioned for sale or distribution.

(c) Handling of Non-Salvageable Merchandise.

Foods contaminated and/or adulterated by pesticides or other chemicals; potentially hazardous foods (frozen or those requiring refrigeration) which have been exposed to a temperature above 7 degrees C (45 degrees F) for a period exceeding 4 hours; foods found unfit for salvage on examination; and foods packaged in paper or other porous materials which have been subject to contamination, shall be deemed to be non-salvageable merchandise, as defined in Section (1)(b).

(d) Cross Contamination Protection.

Sufficient precautions shall be taken to prevent cross-contamination among the various types of merchandise which are salvageable or salvaged; such as between animal feed and human food, or chemicals and food.

(e) Shipment Containers.

(i) Boxes or other containers used to ship or distribute salvaged or distressed foods shall be kept clean and in good condition.

(ii) If the boxes or containers are contaminated with chemicals, rodent droppings or urine, they shall be discarded.

(4) Reconditioning.

(a) Reconditioning of food.

The reconditioning of food and food related items shall be done:

(i) In a room or processing area that complies with the construction requirements for a food establishment as set forth in R70-530.

(ii) In a manner that prevents contamination of the food after it has been reconditioned.

(b) Safe.

Foods or food-related items, after they have been reconditioned, shall be wholesome and safe for human consumption and shall be handled in a manner that complies with the applicable provisions of R70-530.

(c) Condition of Containers.

All metal cans of food offered for sale or distribution shall be essentially free from rust, pitting and dents especially at rim, end double seams and/or side seams. Leakers, springers, flippers, and swells shall be deemed unfit for sale or distribution. Containers, including metal and glass containers with press caps, screw caps, pull rings or other types of openings, which have been in contact with water, liquid foam, or other deleterious substances, as a result of fire fighting efforts, flood, sewer backups or similar mishaps, shall be deemed adulterated and unfit for sale or distribution.

(d) Sanitizing of Containers.

All metal containers of food, other than those mentioned in (c) of this section, whose integrity has not been compromised and whose integrity would not be compromised by reconditioning, and which have been partially or totally submerged in water, liquid foam, or other deleterious substance as the result of flood, sewer backup or other reasons shall, after thorough cleaning, be subjected to sanitizing rinse of a concentration of 100 ppm available chlorine for a minimum period of one minute, or shall be sanitized by another method approved by the UDAF.

(e) Pinholes.

Cans showing surface rust shall, after having their labels removed, be inspected and destroyed if they contain pinholes.

(f) Condition of Food Packages.

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(5) Public Notification.

Sign.

A sign shall be prominently placed by the door of the salvage food establishment that notifies the consumer that this establishment sells distressed or salvaged food. For example, "This store sells Salvaged or Reconditioned Food Items". The lettering of the sign shall be at least 1/4 inch in height as measured by the lower case letter "o".

(6) Labeling.

(a) Labels.

All salvaged merchandise containers shall be properly labeled in accordance with the requirements of the Fair Packaging and Labeling Act in the Federal Food, Drug, and Cosmetic Act.

(b) Overlabeling.

When original labels are missing or illegible, relabeling or overlabeling is required.

(c) No Labels.

Any container of food with the label or mandatory information missing, that cannot be identified and relabeled correctly, shall not be sold.

(d) Sell-by or Use-by Dates.

Distressed or salvaged food that contains a use-by or sell-by date indicated on the container shall not be sold or offered for sale:

(i) After the date indicated on the label if the date is placed on the label for public health reasons, or

(ii) For more than six (6) months after the use-by or sell-by date if the date relates to a quality issue or the conditions of storage have been changed, for example the product has been frozen; or except as specified in (iii).

(iii) The salvage food establishment has written verification from the original manufacturer that the product is still wholesome and safe for human consumption after six (6) months under the current conditions of sale. The written verification shall include the shelf life of the product under the current conditions of sale or length of time the product may be sold after the indicated date.

(7) Records.

(a) Record Information.

Records or receipts of distressed, salvageable, and salvaged merchandise shall be kept by the salvage facility; the regulatory authority shall be allowed to inspect these records during business hours. These records shall include: the product name; the source of the distressed or salvaged merchandise; the date received; the type of damage, if any; and any other unusual circumstances.

(b) Keeping of Records.

These records shall be kept on the premises for a period of two years following the completion of transactions involving any lot of merchandise.

(8) Salvage Processing Facilities and Distributors Outside the Jurisdiction of the UDAF.

(a) Salvage Food Establishments Outside of Utah.

Salvaged merchandise from salvage processing facilities and distributors located outside the jurisdiction of the State of Utah, may be sold or distributed within the State, if such facilities and distributors conform to the provisions of this rule or substantially equivalent provisions.

(b) Proof of Compliance.

To determine the extent of compliance with such provisions, the UDAF may accept reports from responsible authorities in other jurisdictions where such facilities and distributors' operations are located.

**R70-530-10. Compliance and Enforcement.**

10-1. Rule Applicability.

(1) Public Health Protection.

Use for Intended Purpose.

(i) The regulatory authority shall apply this rule to promote its underlying purpose of safeguarding public health and assuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

(ii) In enforcing the provisions of this rule, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this rule based on the following considerations:

(A) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

(B) Whether food-contact surfaces comply with Section 5-1(1);

(C) Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with Section 5-3(1)(a); and

(D) The existence of a documented agreement of the owner that the facilities or equipment will be replaced as specified under Subsection 10-3(3)(e)(vi) or upgraded or replaced as specified under Subsection 10-3(3)(e)(vii).

(2) Additional Requirements.

Preventing Health Hazards, Provision for Conditions Not Addressed.

(i) If necessary to protect against public health hazards, the regulatory authority may impose specific requirements in addition to the requirements contained in this rule that are authorized by law.

(ii) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the owner, or person in charge and a copy shall be maintained in the regulatory authority's file for the food establishment.

(3) Variances.

(a) Modifications and Waivers.

The regulatory authority may grant a variance by modifying or waiving the requirements of this rule if in the opinion of the regulatory authority a health hazard will not result from the variance. If a variance is granted, the regulatory authority shall retain the information specified under Section 10-1(3)(b) in its records for the food establishment.

(b) Documentation of Proposed Variance and Justification.

Before a variance from a requirement of this rule is approved by the regulatory authority, the information that shall be provided by the person requesting the variance and retained in the regulatory authority's file on the food establishment includes:

(i) A statement of the proposed variance of the rule requirement citing relevant rule section numbers;

(ii) An analysis of the rationale how the potential public health hazards addressed by the relevant rule sections will be alternatively addressed by the proposal; and

(iii) A HACCP plan if required as specified under Section 10-2(c)(i) that includes the information specified under Section 10-2(d) as it is relevant to the variance requested.

(c) Conformance with Approved Procedures.\*

If the regulatory authority grants a variance as specified under Section 10-1(3)(a), or a HACCP plan is otherwise required as specified under Section 10-2(c)(i), the owner shall:

(i) Comply with the HACCP plans and procedures that are submitted and approved as specified under Section 10-2(d) as a basis for the modification or waiver; and

(ii) Maintain and provide to the regulatory authority, upon request, records specified under Subsection 10-2(iv) and (v) that demonstrate that the following are routinely employed:

(A) Procedures for monitoring critical control points,

(B) Monitoring of the critical control points,

(C) Verification of the effectiveness of an operation or process, and

(D) Necessary corrective actions if there is failure at a critical control point.

10-2. Plans Submission and Approval.

(1) Facility and Operating Plans

(a) When Plans Are Required.

An owner shall submit to the regulatory authority properly prepared plans and specifications for review and approval before:

(i) The construction of a food establishment;

(ii) The conversion of an existing structure for use as a food establishment; or

(iii) The remodeling of a food establishment or a change in the type of food operation if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this rule.

(b) Contents of the Plans and Specifications.

The plans and specifications for a food establishment, including a food establishment specified under Section 10-2(c)(i), shall include, as required by the regulatory authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with rule provisions:

(i) Intended food to be packaged, processed, prepared, stored, or sold;

(ii) Anticipated volume of food to be prepared, stored, or sold;

(iii) Proposed layout, mechanical schematics, construction materials, and finish schedules;

(iv) Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;

(v) Written standard operating procedures that reflect the knowledge specified under Section 3-2(a) and implement the requirements of this rule, including indication of how practices ensure that:

(A) The transmission of foodborne disease is prevented by managing job applicants and food employees as specified under Section 3-2.

(B) Food is received from approved sources as specified under Section 4-2(1)(a).

(C) Food is managed so that the safety and integrity of the food from the time of delivery to the establishment throughout its storage, preparation, and transportation to the point of sale or service to the consumer is protected.

(D) Potentially hazardous food is maintained, including freezing, cold holding, cooking, hot holding, cooling, reheating, and serving in conformance with the temperature and time requirements specified under Sections 4-4 and 4-5.

(E) Warewashing is effective, including assurance that the chemical solutions and exposure times necessary for cleaning and sanitizing utensils and food-contact surfaces of equipment are provided as specified under Sections 5-6 and 5-7, and

(F) Records that are specified under Sections 6-2(5)(c), 4-2(3)(a) and (b) are retained for inspection;

(vi) Proposed program of training for the persons in charge and food employees pertaining to protecting public health and the safety and integrity of food; and

(vii) Other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

(c) When a HACCP Plan Is Required.

(i) Before engaging in an activity that requires a HACCP plan, a person in charge or an owner shall submit to the regulatory

authority for approval a properly prepared HACCP plan as specified under Section 10-2(1)(d) and the relevant provisions of this rule if:

(A) Submission of a HACCP plan is required according to law;

(B) A variance is required as specified under Section 4-5(2)(a), Subsection 5-2(4)(j), or Subsections 4-4(1)(a)(iii)(B), or 4-4(4-2(3)(b)(ii)(B); or

(C) The regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified under Section 10-2(1)(b), an inspectional finding, or a variance request.

(ii) The owner or responsible party shall have a properly prepared HACCP plan as specified under Section 4-5(2)(b).

(d) Contents of a HACCP Plan.

For a food establishment that is required under Section 10-2(1)(c) to have a HACCP plan, the plan and specifications shall indicate:

(i) A categorization of the types of potentially hazardous foods that will be manufactured or processed, such as soups and sauces; salads; bulk solid foods, such as meat roasts; or of other foods that are specified by the regulatory authority;

(ii) A flow diagram by specific food or category type identifying critical control points and providing information on the following:

(A) Ingredients, materials, and equipment used in the preparation of that food, and

(B) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

(iii) Food employee and supervisory training plan specified under Subsection 10-2(1)(vi) that addresses the food safety issues of concern;

(iv) A statement of standard operating procedures for the plan under consideration including clearly identifying:

(A) Each critical control point,

(B) The critical limits for each critical control point,

(C) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,

(D) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points,

(E) Action to be taken by the person in charge if the critical limits for each critical control point are not met, and

(F) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

(v) Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(2) Trade Secrets.

The regulatory authority shall treat as confidential in accordance with law, information that meets the criteria under law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under Sections 10-2(1)(b) and 10-2(1)(d).

(3) Preoperational Inspections.

The regulatory authority shall conduct one or more preoperational inspections to verify that the food establishment is

constructed and equipped in accordance with the approved plans and approved modifications of those plans and is in compliance with law and this rule.

10-3. Permission to Operate.

(1) Prerequisite for Operation.

A person may not operate a food establishment without being under inspection by the UDAF.

(2) Notification Procedure.

(a) Notification 30 Calendar Days Before Proposed Opening.

An applicant shall notify the UDAF of its intent to operate a food establishment at least 30 calendar days before the date planned for opening a food establishment.

(b) Qualifications and Responsibilities of Applicants.

To qualify to operate a food establishment, an applicant shall:

(i) Be an owner of the establishment or an officer of the legal ownership;

(ii) Comply with the requirements of this rule;

(iii) As specified under Section 10-4(2)(a), agree to permit access to the food establishment and to provide required information.

(c) Information Required.

The information shall include:

(i) The name, mailing address, telephone number, of the owner of the food establishment and the name, mailing address, and location of the food establishment;

(ii) Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity;

(iii) A statement specifying whether the food establishment:

(A) Is mobile or stationary and temporary or permanent, and

(B) Is an operation that includes one or more of the following:

(I) Prepares, offers for sale, or serves potentially hazardous food, or

(II) Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing.

(III) Prepares food as specified under Subsection (iii)(B)(II) of this section for delivery to and consumption at a location off the premises of the food establishment where it is prepared.

(IV) Prepares food as specified under Subsection (iii)(B)(II) of this section for service to a highly susceptible population.

(V) Will be using time as a public health control for specific food.

(VI) Prepares only food that is not potentially hazardous, or

(VI) Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous;

(iii) The names, title, address, and telephone number of the person directly responsible for the food establishment;

(iv) The names, titles, and addresses of:

(A) The persons comprising the legal ownership as specified under Subsection (ii) of this section including the owners and officers, and

(B) The local resident agent if one is required based on the type of legal ownership;

(iv) A statement signed by the owner or responsible party that:

(A) Attests to the accuracy of the information provided, and

(B) Affirms that the applicant will:

(I) Comply with this rule, and

(II) Allow the regulatory authority access to the establishment as specified under Section 10-4(2)(a) and to the records specified under Sections 4-2(3)(b) and 6-2(5)(c) and Subsection 10-2(1)(d)(iv); and

(v) Other information required by the regulatory authority.

(3) New, Converted, or Remodeled Establishments.

(a) Permission to operate.

For food establishments that are required to submit plans as specified under Section 10-2(1)(a) the regulatory authority shall give them permission to operate a food establishment after:

(i) The information is obtained;

(ii) The required plans, specifications, and information are reviewed and approved; and

(iii) A preoperational inspection shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this rule.

(b) Existing Establishments and Change of Ownership.

(i) The regulatory authority shall be notified of a change of ownership in an existing food establishment.

(ii) The information required under 10-3(2)(c) shall be obtained.

(iii) An inspection shall show that the establishment is in compliance with this rule.

(c) Denial of Approval to Operate a Food Establishment, Written Notification.

If an application for a business license or permission to operate a food establishment is denied, the regulatory authority shall provide the owner with a notice that includes:

(i) The specific reasons and rule citations for the denial;

(ii) The actions, if any, that the applicant must take to qualify; and

(iii) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided under law.

(d) Responsibilities of the Regulatory Authority.

(i) Upon request, the regulatory authority shall provide a copy of the Utah Food Protection Rule at its cost.

(ii) Failure to provide the information specified under Subsection (i) of this section does not prevent the regulatory authority from taking authorized action or seeking remedies if the owner fails to comply with this rule or an order, warning, or directive of the regulatory authority.

(e) Responsibilities of the Owner or Responsible Party.

The owner or responsible party shall:

(i) Comply with the provisions of this rule including the conditions of a granted variance as specified under Section 10-1(3)(c), and approved plans as specified under Section 10-2(1)(b);

(ii) If a food establishment is required under Section 10-2(1)(c) to operate under a HACCP plan, comply with the plan as specified under Section 10-1(3)(c);

(iii) Immediately contact the regulatory authority to report an illness of an applicant or employee as specified under Section 3-2(e);

(iv) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under Section 10-4(2)(j);

(v) Allow representatives of the regulatory authority access to the food establishment as specified under Section 10-4(2)(a);

(vi) Except as specified under (vii) of this section, replace existing facilities and equipment specified under Section 10-1(1) with facilities and equipment that comply with this rule if:

(A) The regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or no longer comply with the criteria upon which the facilities and equipment were accepted.

(B) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership, or

(C) The facilities and equipment are replaced in the normal course of operation.

(vii) Upgrade or replace refrigeration equipment as specified under Subsection 4-5(1)(f)(iii), if the circumstances specified under Subsections (v)(A)-(C) of this section do not occur first, and 5 years pass after the regulatory authority adopts this rule;

(viii) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the owner's food establishment or in response to community emergencies;

(ix) Accept notices issued and served by the regulatory authority according to law; and

(x) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this rule or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

10-4. Inspections and Correction of Violations.

(1) Performance- and Risk-Based.

The regulatory authority shall prioritize, and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this rule and the establishment's potential as a vector of foodborne illness by evaluating:

(i) Past performance, for nonconformance with rule or HACCP plan requirements that are critical;

(ii) Past performance, for numerous or repeat violations of rule or HACCP plan requirements that are noncritical;

(iii) Past performance, for complaints investigated and found to be valid;

(iv) The hazards associated with the particular foods that are prepared, stored, or served;

(v) The type of operation including the methods and extent of food storage, preparation, and service.

(2) Access.

(a) Allowed at Reasonable Times after Due Notice.

After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the food establishment is in compliance with this rule by permitting access to the establishment within 15 minutes, allowing inspection, and providing information and records specified in this rule and to which the regulatory authority is entitled according to law, during the food establishment's hours of operation and other reasonable times.

(b) Refusal, Notification of Right to Access, and Final Request for Access.

If a person denies access to the regulatory authority, the regulatory authority shall:

(i) Inform the person that:

(A) The owner or responsible party is required by law to allow access to the regulatory authority; and

(B) If access is denied, an order may issued by the appropriate authority requesting access or a search warrant obtained to allow access; and

(ii) Make a final request for access.

(c) Refusal, Reporting.

If after the regulatory authority presents credentials and provides notice as specified under Section 10-4(2)(a), explains the authority upon which access is requested, and makes a final request for access as specified under Section 10-4(2)(b), the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

(d) Order to Gain Access.

If denied access to a food establishment for an authorized purpose and after complying with 10-4(2)(c) may issue a Violation and Order for Corrective Action or obtain a search warrant to gain access as provided under law.

(e) Documenting Information and Observations.

The regulatory authority shall document on an inspection report form:

(i) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under Subsection 10-3(2)(c)(iii), inspection date, and other information such as type of water supply and sewage disposal; and

(ii) Specific factual observations of violative conditions or other deviations from this rule that require correction by including:

(A) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this rule specified under Section 3-1(2)(a).

(B) Failure of food employees and the person in charge to demonstrate their knowledge of their responsibility to report a disease or medical condition as specified under Sections 3-2(d) and (e).

(C) Nonconformance with critical items of this rule.

(D) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the regulatory authority as specified under Subsection 10-1(3)(c).

(E) Failure of the person in charge to provide records required by the regulatory authority for determining conformance with a HACCP plan as specified under Subsection 10-2(1)(d)(iv), and

(F) Nonconformance with critical limits of a HACCP plan.

(f) Specifying Time Frame for Corrections.

The regulatory authority shall specify on the inspection report form the time frame for correction of the violations as specified under Sections 10-4(2)(f),(l),and (n).

(g) Issuing Report and Obtaining Acknowledgment of Receipt.

At the conclusion of the inspection and according to law, the regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the owner or to the person in charge, and request a signed acknowledgment of receipt.

(h) Refusal to Sign Acknowledgment.

The regulatory authority shall:

(i) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under Section 10-4(2)(a):

(A) An acknowledgment of receipt is not an agreement with findings.

(B) Refusal to sign an acknowledgment of receipt will not affect the person in charges obligation to correct the violations noted in the inspection report within the time frames specified, and

(C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the regulatory authority's historical record for the food establishment; and

(ii) Make a final request that the person in charge sign an acknowledgment of receipt of inspectional findings.

(i) Public Information.

Except as specified under Section 10-2(2), the regulatory authority shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it under law.

(j) Ceasing Operations and Reporting.

(i) A person in charge shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health, except as specified in Subsection (ii) of this section;

(ii) A person in charge need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(k) Resumption of Operations.

If operations are discontinued as specified under Section 10-4(2)(f) or otherwise according to law, the owner or person in charge shall obtain approval from the regulatory authority before resuming operations.

(l) Timely Correction.

(i) A person in charge shall at the time of inspection correct a critical violation of this rule and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit, except as specified in Subsection (ii) of this section.

(ii) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the person in charge to correct critical rule violations or HACCP plan deviations.

(m) Verification and Documentation of Correction.

(i) After observing at the time of inspection a correction of a critical violation or deviation, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.

(ii) As specified under Subsection 10-4(2)(l)(ii), after receiving notification that the person in charge has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the regulatory authority's records.

(n) Time Frame for Correction.

(i) The owner or person in charge shall correct noncritical violations by the next regular inspection, a date and time agreed to, or as specified by the regulatory authority, except as specified under Subsection (ii) of this section.

(ii) The regulatory authority may approve a compliance schedule that extends beyond the time limits specified under Subsection (i) of this section if a written schedule of compliance is submitted by owner or person in charge and no health hazard exists or will result from allowing an extended schedule for compliance.

10-5. Prevention of Foodborne Disease Transmission by Employees.

(a) Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis.

The regulatory authority shall act when it has reasonable cause to believe that a food employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(i) Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and

(ii) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees, and

(iii) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703.

(b) Restriction or Exclusion of Food Employee.

Based on the findings of an investigation related to an employee who is suspected of being infected or diseased, the regulatory authority may issue an order to the suspected employee or owner or person in charge instituting one or more of the following control measures:

(i) Restricting the employee's services to specific areas and tasks in a food establishment that present no risk of transmitting the disease;

(ii) Excluding the employee from a food establishment.

(c) Restriction or Exclusion Order: Warning or Hearing Not Required, Information Required in Order.

Based on the findings of the investigation as specified under Section 10-5(a) and to control disease transmission, the regulatory authority may issue an order of restriction or exclusion to a suspected employee or the owner without prior warning, notice of a hearing, or a hearing if the order:

(i) States the reasons for the restriction or exclusion that is ordered;

(ii) States the evidence that the employee or owner shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;

(iii) States that the suspected employee or the owner holder may request an appeal hearing by submitting a timely request as provided under law; and

(iv) Provides the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

(d) Release of Employee from Restriction or Exclusion.

The regulatory authority shall release an employee from restriction or exclusion according to law and the following conditions:

(i) An employee who was infected with Salmonella typhi if the employee's stools are negative for S. typhi based on testing of at least 3 consecutive stool specimen cultures that are taken:

(A) Not earlier than 1 month after onset,

(B) At least 48 hours after discontinuance of antibiotics, and

(C) At least 24 hours apart; and

(ii) If one of the cultures taken as specified under Subsection (i) of this section is positive, repeat cultures are taken at intervals of 1 month until at least 3 consecutive negative stool specimen cultures are obtained.

(iii) An employee who was infected with Shigella spp. or Escherichia coli O157:H7 if the employee's stools are negative for Shigella spp. or E. coli O157:H7 based on testing of 2 consecutive stool specimen cultures that are taken:

(A) Not earlier than 48 hours after discontinuance of antibiotics; and

(B) At least 24 hours apart.

(iv) An employee who was infected with hepatitis A virus if:

(A) Symptoms cease; or

(B) At least 2 blood tests show falling liver enzymes.

10-6. Embargo and Destruction of Adulterated Food Products Authorized.

(1) The embargo of adulterated food products is authorized under 4-5.

(a) The regulatory authority may place a hold order on food found to be adulterated and unfit for human consumption.

(b) The regulatory authority may issue a hold order to the person in charge or to a person who owns or controls the food, without prior warning, notice of a hearing, or a hearing on the hold order.

(2) If a hold order is sustained upon appeal or if a timely request for an appeal hearing is not filed, the regulatory authority may order the person in charge or the owner or other person who owns or has custody of the food to bring the food into compliance with this rule or to destroy or denature the food under the regulatory authority's supervision.

Continuing Violations.

Each day on which a violation occurs, is a separate violation under this rule.

**KEY: inspections**

**1998**

**4-5-17**



Commerce, Occupational and  
Professional Licensing  
**R156-40**  
Recreational Therapy Practice Act  
Rules

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20695

FILED: 01/27/98, 09:29

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: After Division and Recreational Therapy Board review, these amendments are proposed for this rule.

SUMMARY: The following definitions are being added: "approved equivalent experience," "approved masters degree in recreational therapy or a masters degree with an approved emphasis in recreational therapy," "approved training program," "CTRS," "MTRS," "NCTRC," "supervision of a therapeutic recreational technician," "TRS," and "TRT." Deleted the following definitions: "private practice consultant" and "supervise." The definition for "supervise" was replaced with a new definition "supervision of a TRT." Deleted education requirements, Section R156-40-302a, and replaced it with the requirement that current National Council for Therapeutic Recreation Certification (NCTRC) as a certified therapeutic recreation specialist (TRS) is required to document that an applicant has completed the education and practicum requirement for licensure as a TRS as provided in Subsections 58-40-5(2)(a) and (b). Deleted experience requirements, Section R156-40-302b, and examination requirements, Section R156-40-302c, and replaced with revised examination requirements. All applicants for licensure will continue to be required to take the Utah Recreational Therapy Law and Rule Examination. A passing score of 75% has been added with respect to that examination. Added that applicants for licensure as a master therapeutic recreational specialist (MTRS) or TRS shall pass the NCTRC certification examination as evidenced by a current NCTRC certification as a certified therapeutic recreational specialist (CTRS). Applicants for licensure as a therapeutic recreational specialist (TRT) will continue to take the Utah Recreational Therapy Examination. A minimum passing score of 70% has been added for that examination. The purpose of these changes is to replace the state written examination for TRS and MTRS applicants with the national certification examination. In addition, the national certification board will also review the applicant's education to determine if the applicant is eligible to take the examination.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 58-40-1, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Cost of \$200 to MTRS and TRS applicants to obtain certification and take the NCTRC examination from the National Council for Therapeutic Recreation, but applicants will save \$75 in not needing to take the Utah Recreational Therapy Theory Examination.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost of \$200 to MTRS and TRS applicants to obtain certification and take the NCTRC examination from the National Council for Therapeutic Recreation, but applicants will save \$75 in not needing to take the Utah Recreational Therapy Theory Examination.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.dfairhur@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 03/04/98, 9:00 a.m., 160 East 300 South, Room 428, Salt Lake City, UT.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.**

**R156-40. Recreational Therapy Practice Act Rules.**

**R156-40-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 40, as used in Title 58, Chapters 1 and 40 or these rules:

(1) "Approved equivalent experience" for licensure as a MTRS, as used in Subsection 58-40-5(1)(a)(ii), means two years of full time paid experience obtained outside Utah while certified by NCTRC as a CTRS.

(2) "Approved masters degree in recreational therapy or a masters degree with an approved emphasis in recreational therapy", as used in Subsection 58-40-5(1)(a)(i), means an earned masters degree which includes a minimum of nine semester hours or 12 quarter hours of graduate level course work in recreational therapy.

(3) "Approved training program" for licensure as a TRT, as used in Subsection 58-40-5(3)(a), means a minimum 200 hour training program approved by a MTRS and under the supervision or direction of a MTRS.

(4) "CTRS" means a person certified as a Certified Therapeutic Recreation Specialist by the National Council for Therapeutic Recreation Certification.

(5) "MTRS" means a person licensed as a master therapeutic recreational specialist.

(6) "NCTRC" means the National Council for Therapeutic Recreation Certification.

(7) "Supervision of a therapeutic recreational technician", as used in Subsection 58-40-6(3)(a) and (b), means that the MTRS or

TRs supervisor is responsible for the recreational therapy activities performed by the TRT and will review and approve the treatment plans as well as any modifications to the treatment plans as evidenced by the signature of the MTRS or TRS in the treatment plan.

(8) "TRS" means a person licensed as a therapeutic recreational specialist.

(9) "TRT" means a person licensed as a therapeutic recreational technician. (1) "Formal university or college coursework" as used in Section R156-40-302a means educational courses taught in a university or college classroom.

(2) "Private practice consultant" as used in Subsection 58-40-6(1)(a) means that a master therapeutic recreational specialist (MTRS) may contract with individuals, groups, agencies or facilities to provide or supervise recreational therapy services.

(3) "Supervise" as used in Subsections 58-40-6(1)(b) and 58-40-6(2)(b) means:

(a) the MTRS or therapeutic recreational specialist (TRS) is responsible for the activities, duties and functions performed by the therapeutic recreational technician (TRT);

(b) the MTRS or TRS shall approve all recreational therapy services performed, prescribed or modified by the TRT as evidenced by their cosignature in the treatment plan; and

(c) the MTRS or TRS is available to the TRT for advice, assistance and direction through direct voice to voice communication and face to face contact.]

([§]10) "Unprofessional conduct" is defined in Title 58, Chapters 1 and 40.

**R156-40-302a. [Qualifications for Licensure - Education Requirements]Education and Practicum Requirements for Licensure as a Therapeutic Recreational Specialist.**

In accordance with Subsections 58-40-5(2)(a) and (b), a current NCTRC certification as a CTRS is required to document that a person has completed the education and practicum requirements for licensure as a TRS. [58-1-203(2) and 58-1-301(3); the education requirements for licensure in Section 58-40-5 are defined, clarified, or established as follows:

(1) To qualify for licensure as a MTRS:

(a) complete a masters degree with an emphasis in recreational therapy which includes nine semester hours or 12 quarter hours in upper division formal university or college coursework in recreational therapy;

(2) To qualify for licensure as a TRS:

(a) be currently certified by the National Council for Therapeutic Recreation Certification at the Therapeutic Recreation Specialist level; or

(b) complete a bachelor's degree which includes the following formal university or college coursework or additional formal university or college coursework:

(i) nine semester hours or 12 quarter hours in recreational therapy which courses are in addition to any course credits that have been awarded for completing an approved 75-hour TRT training program;

(ii) nine semester hours or 12 quarter hours in general recreation which courses are in addition to any credits that have been awarded for completing an approved 75-hour TRT training program; and

(iii) 18 semester hours or 27 quarter hours from at least three of the following subject areas: adaptive physical education, related sciences, human services, psychology, sociology, or special education;

(3) To qualify for licensure as a TRT:

(a) complete an approved 75-hour training program conducted by a MTRS as set forth in Table I; or

TABLE I  
75-Hour TRT Training Program

- (1) Ethics.
- (2) Theories and concepts of recreational therapy.
- (3) Characteristics of illness and disability and their effects on leisure.
- (4) Medical and psychiatric terminology: psychiatric, pharmacology, abbreviations, recreational therapy and medical.
- (5) Client assessment procedures: client, facility, staffing and budget.
- (6) Conceptualization and planning of recreational therapy programming.
- (7) Records and documentation.
- (8) Role and function of other health and human service professionals: agencies, medical specialists, and allied health professionals.
- (9) Health and safety: contraindications, aggression, and mechanical aids.

(b) complete four semester hours or six quarter hours in formal university or college coursework in recreational therapy; which hours may also be used toward completing the coursework requirements stated under Subsection R156-40-302a(2)(b)(i) for licensure as a TRS;

(c) complete a course in first aid; and

(d) complete a course in CPR.]

**R156-40-302b. [Qualifications for Licensure - Experience]Examination Requirements.**

In accordance with Subsections 58-40-5(1)(e), 58-40-5(2)(f) and 58-40-5(3)(e), applicants for licensure shall pass the following examinations:

(1) Applicants for licensure as a MTRS, TRS or TRT shall pass the Utah Recreational Therapy Law and Rule Examination with a minimum passing score of 75%.

(2) Applicants for licensure as a MTRS or TRS shall pass the NCTRC certification examination as evidenced by a current NCTRC certification as a CTRS.

(3) Applicants for licensure as a TRT shall pass the Utah Recreational Therapy Examination for TRT with a minimum passing score of 70%. [In accordance with Subsections 58-1-203(2) and 58-1-301(3), the experience requirements for licensure in Section 58-40-5 are defined, clarified, or established as follows:

(1) To qualify for licensure as a MTRS:

(a) complete 4000 hours of paid employment within Utah as a licensed TRS; or

(b) if outside the state of Utah, complete 4000 hours of paid employment in recreational therapy after having completed the education requirements set forth in Subsection R156-40-302a(2) for a TRS;

(2) To qualify for licensure as a TRS, complete a practicum consisting of one of the following:

— (a) complete a 360 hour field placement experience over a minimum of ten weeks in a clinical, residential, or community-based recreational therapy program under the supervision of an on-site supervisor who is licensed as a MFRS or TRS; or

— (b) if outside of the state of Utah, complete a 360 hour field placement experience over a minimum of ten weeks in a clinical, residential, or community-based recreational therapy program under the supervision of a person certified by the National Council for Therapeutic Recreation Certification as a Certified Therapeutic Recreation Specialist.

— (3) To qualify for licensure as a TRT, complete 125 hours of a fieldwork experience program set forth in Table II in a health care facility, institution, or community-based program under the supervision of a licensed MFRS or TRS:

TABLE II  
125 Hour TRT Field Work Experience Program

— (1) Face to face consultation with TRS or MFRS supervisor which includes: ethics, client assessment procedures, records and documentation, conceptualization of programming, and theories and concepts of recreational therapy. (10 hours)

— (2) Programming (60 hours)  
— (a) develop and conduct a four sequence recreational therapy activity which is complemented with written action plans identifying treatment goals, precautions, adaptations and general treatment approach;

— (b) develop a calendar of recreational therapy activities for one month which is reflective of client populations' interests and needs; and

— (c) plan and conduct routinely scheduled recreational therapy activities.

— (3) Documentation (40 hours)  
— (a) complete 10 assessments and formulate ten treatment plans; and

— (b) collect data during treatment implementation on ten clients or patients and formulate respective status notes.

— (4) Interdisciplinary contact (10 hours)  
— Attendance at interdisciplinary team meetings to increase familiarity with function of area professional practices: social work, nursing, psychology, dietary, physical therapy, occupational therapy and others.

— (5) Administration (5 hours)  
— (a) receive orientation on quality assurance;  
— (b) attend at least one management meeting; and  
— (c) meet with the department administrator to discuss administrative expectations of the TRT.

**~~R156-40-302c. Qualifications for Licensure - Examination Requirements:~~**

— (1) In accordance with Subsections 58-1-203(2) and 58-1-301(3) and Sections 58-1-309 and 58-40-5, the examination requirements for licensure are defined, clarified, or established as follows:

— (a) pass the Utah Recreational Therapy Theory Examination for the license classification the applicant is applying for; and

— (b) pass the Utah Law and Rules Examination.

— (2) Individuals who are currently enrolled in an approved bachelors or masters curriculum may begin testing for the TRS or MFRS theory and law and rules examinations in their last semester or quarter prior to graduation.

— (3) Individuals who have completed the education requirements for licensure as a TRT may begin testing for the TRT theory and law and rules examinations.]

**KEY: licensing, recreational therapy\***

~~[June 15, 1994]1998~~

Notice of Continuation January 27, 1998

58-40-1

58-1-106(1)

58-1-202(1)



## Environmental Quality, Drinking Water

# R309-114

## Drinking Water Source Protection Funding

### NOTICE OF PROPOSED RULE

(New)

DAR FILE No.: 20693

FILED: 01/21/98, 10:43

RECEIVED BY: NL

### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The Division anticipates receiving money through the Federal "Safe Drinking Water Act" to fund Source Protection Programs in the state. This rule establishes the eligibility criteria and the process by which small public water systems may apply for and receive funds from the Division.

SUMMARY: This rule is intended to help small public drinking water systems fund the development of their Drinking Water Source Protection plans. It establishes criteria to ensure that small public water systems with the greatest financial need receive funding. Small public water systems shall be eligible for 50%, not to exceed \$2,500, of the actual costs for each ground water source of drinking water for which they prepare and submit to the Division a complete Drinking Water Source Protection Plan.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Subsection 19-4-104(1)(a)(iv)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: \$1,000,000 savings to small public drinking water systems.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Small public drinking water systems may be reimbursed at the rate of fifty percent, not to exceed \$2,500, of actual costs for each ground water source of drinking water.

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

Environmental Quality  
Drinking Water  
150 North 1950 West  
PO Box 144830  
Salt Lake City, UT 84114-4830, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS FILING TO:

Sumner Newman at the above address, by phone at (801) 536-4200, by FAX at (801) 536-4211, or by Internet E-mail at [snewman@deq.state.ut.us](mailto:snewman@deq.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 04/07/98

AUTHORIZED BY: Dianne R. Nielson, Executive Director

**R309. Environmental Quality, Drinking Water.****R309-114. Drinking Water Source Protection Funding.****R309-114-1. Authority and Purpose.**

(1) Under authority granted in Subsection 19-4-104(1)(a)(iv), the Drinking Water Board adopts this rule which governs the pass through of federal funds to small public water systems to assist them in developing source protection plans required by R309-113.

(2) The Federal Safe Drinking Water Act Amendments of 1996 make certain federal funds available to states to assist them in completing source water assessments required by the Act. It is the intent of the Drinking Water Board to pass most of these funds through to small public water systems to assist them by covering part of the costs they incur in preparing Drinking Water Source Protection Plans ("DWSP Plans") required by R309-113.

(3) This rule sets forth the guidelines and requirements that the Drinking Water Board and staff will adhere to in determining the eligibility for and amounts of federal funding that small public water systems shall be granted.

**R309-114-2. Definitions.**

(1) "Small public water system" means a public water system serving less than 3,300 persons.

(2) "DDW" means the Department of Environmental Quality, Division of Drinking Water.

**R309-114-3. Funds Availability - Time Period.**

(1) Federal funds shall be available to be granted to small public water systems as soon as this rule becomes effective and federal funds are made available to the State of Utah. Subject to their availability, funds shall be dispersed until all small public water systems meeting the eligibility requirements of this rule have received funds, or until the total amount of funds passed through to water systems equals \$1,000,000, whichever occurs first. In any case, DWSP Plans submitted to DDW after December 31, 1999, shall not receive funding.

(2) Any federal funds set aside for the purposes described in this rule and not used for the same shall be used for other source water assessment or protection purposes or revert to the federal Drinking Water State Revolving Loan Fund as provided for by federal Safe Drinking Water Act.

**R309-114-4. Funding Amounts.**

(1) Small public water systems shall be eligible for 50%, not to exceed \$2,500, of the actual costs for each ground-water source

of drinking water for which they prepare and submit to DDW a complete DWSP Plan. Funds shall not be granted until DDW determines that the Plan is complete, i.e., meets all the requirements of R309-113.

(2) Systems located in the same geographic areas are encouraged to have their source protection plans prepared together, as a group, by a single consultant or vendor. This should help to reduce costs and increase the effectiveness of plans.

**R309-114-5. Eligibility Criteria and Application for Funds.**

(1) In order to be eligible for these funds, a small public water system must:

(a) Have been in existence as of the initial effective date of R309-113 (July 26, 1993);

(b) have more than 50% of the dwelling units served by the system occupied by permanent, year-round residents;

(c) have a median adjusted gross income that is less than the state-wide median adjusted gross income for Utah;

(d) be a community water system, or a non-transient, non-community water system that is not associated with or owned by a for-profit entity, and is not owned/operated by a federal or state government agency; and

(e) submit complete DWSP Plans to DDW by the due dates indicated in R309-113-3. No DWSP Plans submitted to DDW after December 31, 1999 shall be eligible for these funds.

(2) In addition, only DWSP Plans prepared for drinking water sources that were existing (approved by DDW) as of July 26, 1993 shall be eligible for these funds.

(3) Application for Funds - In order to apply for and receive funds, small public water systems must submit a letter of application, with the complete DWSP Plan, to DDW. The letter of application must be accompanied by documentation of actual costs incurred in preparing the DWSP Plan(s), and certify that these costs are actual and correct. The letter must also certify that the water system meets the eligibility criteria stated above, and be signed by the water system manager or designated person (R309-113-5).

**R309-114-6. Order of Dispersal of Funds.**

(1) Funds shall be granted to small public water systems by DDW in the order in which complete DWSP Plans along with a letter of application for funds are received by DDW.

(2) Funds shall be dispersed until the total amount granted reaches \$1,000,000, or until all DWSP Plans submitted by December 31, 1999, and determined to be eligible for funding have been funded, whichever occurs first.

**KEY: drinking water, environmental health**  
**1998**

**19-4-104(1)(a)(iv)**



Human Services, Recovery Services  
**R527-300**  
Income Withholding

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20723

FILED: 02/02/98, 12:38

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: To comply with federal requirements of welfare reform legislation, Section 62A-11-4 was amended. Because Rule R527-300 was enacted under provisions of this law, it is necessary that it be amended in conformance with the new legal requirements.

SUMMARY: The new title of the child support services section of the Office Of Recovery Services (ORS/CSS) has been added to Section R527-300-1. Because welfare reform eliminated the requirements to provide advance notice of income withholding to the obligor and to begin the income withholding process at the request of the obligee, paragraph 2 has been revised to reflect the new requirement to give concurrent notice to the obligor when ORS/CSS sends the Notice to Withhold Income for Child Support to the payor of income. In Subsection R527-300-2(2), the advance notice language has been struck because once a delinquency has occurred under an order issued before October 13, 1990, or for any order issued after that date, immediate income withholding is now required. In Subsection R527-300-2(3), language was added to clarify that a child support underpayment for several months does not constitute a delinquency unless it totals at least one month's current support. In Section R527-300-3, "IV-A" (denoting the current cash assistance program) replaces "AFDC" (the defunct Aid to Families with Dependent Children program). The affidavit of delinquency, which is addressed in this section, is no longer called the Computation of Arrears. It is now called Statement of Arrears and is contained in the new application packet. Hence, the word "computation" has been replaced with "statement" to meet the requirements of Section 62A-11-405. Also, because of the verification requirement in that law, the words, "signs a statement" have been replaced with "attests." Section R527-300-4 which was the Hearing section of this rule has been changed to the Administrative Review section because the hearing process formerly referred to in Section 62A-11-405 was replaced with the administrative review process. Since the new process is begun by filing a written request for review within 15 days, this information has been included in the rule, and because a set time and place for the review and the appearance of the obligor is not required under the amended statute, the word "held" has been replaced with "conducted" in the rule. The name of the Notice to Withhold has been changed to Notice to Withhold Income for Child Support in conformance with federal requirements. Sections R527-300-6 and R527-300-7 have been revised to reflect that change. Because Section 62A-11-406 does not require the notice to be served, Section R527-300-6 has been revised to indicate that the notice (original or amended) may be sent to the payor of income. The reference to the Advance Notice has been deleted, and the concurrent notice provision and the reference to ORS/CSS has been added, as in previous sections of this rule. Because there is no statutory requirement for the

obligor to notify the ORS/CSS team of a change in payor of income before the team may send the new payor of income a withholding notice, the language in the rule which implied such a requirement has been removed. Since ORS/CSS assessment procedures are adequately presented in policy, only the reference to those procedures has been retained in the rule. The procedural details have been deleted. The provision for suspension of income withholding is not federally required nor is it included in state statute. Consequently, all references to it have been removed from Section R527-300-8. In addition, "AFDC" has been replaced with "IV-A," "ORS" has been replaced with "ORS/CSS," and hearing has been replaced with "review," as in previous sections of this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 62A-11-401, 62A-11-405, 62A-11-406, 62A-11-413, and 62A-11-414

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Because immediate income withholding is now required without first giving advance notice to the obligor, child support recovery in IV-A cases may begin up to two to three months sooner, providing substantial savings to the state.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Because immediate income withholding is now required without first giving advance notice to the obligor, child support collection in non-IV-A cases may begin up to two to three months sooner, providing substantial savings to custodial parents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because payors of income are already allowed under the law to deduct a fee to defray costs of withholding, earlier income withholding in most IV-D cases that results from this filing will not create additional compliance costs for them. Since child support obligors in IV-D cases are already required to pay support and are legally subject to income withholding, this filing will create no additional compliance costs for them.

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

Human Services  
 Recovery Services  
 Fourteenth Floor, Eaton/Kenway Bldg  
 515 East 100 South  
 PO Box 45011  
 Salt Lake City, UT 84145-0011, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsdadmin.hsorssl.c.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.**

**R527-300. Income Withholding.**

**R527-300-1. Income Withholding.**

1. Income withholding is defined as withholding child support from an obligor's income. The payor of income forwards the amount withheld to the Office of Recovery Services/Child Support Services (ORS/CSS).

2. Income withholding may be initiated ~~[by service of an advance notice]in a IV-D case, with concurrent notice to the obligor[at the obligee's request]:~~

a. in a case which has an order issued prior to October 13, 1990, which has not been modified since October 13, 1990, even though the obligor is not delinquent as defined in Section 62A-11-401~~[(4)](5)~~ or R527-300-2, if the obligor and the obligee have signed a subsequent agreement which the obligor has failed to meet; for example, while the order does not require payment by a specific date, there is a written agreement that payment will be made on the first day of each month, or

b. in a case which has an order issued or modified after October 13, 1990, which found a demonstration of good cause or entered a written agreement that immediate income withholding is not required, if the obligor and the obligee have signed a subsequent agreement which the obligor has failed to meet; for example, while the order does not require payment by a specific date, there is a written agreement that payment will be made on the first day of each month.

**R527-300-2. Determining Delinquency.**

1. If current support has been ordered but is not presently in effect; for example, the children are 18 years old, the children have been adopted, custody has changed, or the obligor is paying current support to the obligee; delinquency has occurred when the obligor has accrued a debt in an amount equal to or greater than the previously ordered current support for one month.

2. If there was not a previous current support order but there is a judgment for arrears, delinquency has occurred when the obligor fails to pay as agreed, provided the judgment was for at least one month's current support amount used to compute the judgment for arrears. If the judgment was by default and the judgment amount was for at least one month's current support amount used to compute the judgment, ~~[the advance notice may be served]income withholding may begin~~ immediately upon entry of the judgment.

3. A delinquency could be the result of an underpayment for several months that totals at least one month's current support.

4. A delinquency can occur prior to the end of the month if the obligor was ordered to pay on specific days of the month and failed to do so.

**R527-300-3. Affidavit of Delinquency.**

The Non-~~[AFDC]IV-A~~ applicant prepares a month-by-month computation of the support debt, which is referred to as a ~~[computation]statement~~ of arrears. The ~~[computation]statement~~ of arrears is part of the ~~[Non-AFDC]~~ application packet. As part of the ~~[computation]statement~~ of arrears, the applicant ~~[signs a statement]attests~~ that the ~~[computation]statement~~ is true and accurate to the best knowledge and belief of the applicant. This

signed statement~~[and computation]~~ shall satisfy the verified statement requirement of Section 62A-11-405.

**R527-300-4. ~~[Hearing]Administrative Review.~~**

1. Section 62A-11-405(2)~~[(4)](b)(ii)(B)~~ requires ~~[that the obligor contact the office in writing]the obligor to file a written request for review with the office within 15 days~~ to contest withholding. This written ~~[contact]request for review~~ shall state the obligor's basis for contesting the withholding.

2. If an administrative review~~[hearing]~~ is ~~[held]conducted~~ pursuant to Section 62A-11-405(3)~~[(4)]~~, the notice of decision required may be mailed or delivered to the obligor in the ordinary course of business.

.....

**R527-300-6. Modification of Withholding Amounts.**

1. Once a Notice to Withhold Income for Child Support has been ~~[served on]sent to~~ the obligor's employer, ~~[it is not necessary to re-serve the obligor with an Advance Notice in order to modify the Notice to Withhold]any changes to the withholding amount will be made by sending the payor a modified Notice to Withhold. ~~[However, t]The obligor [must be notified]will be provided concurrent notice of any changes.[- that the terms of the original Notice to Withhold [are to be] changed:]~~~~

2. If the obligor changes from one payor of income to another payor of income~~[- has informed the team of the change, and the obligor's situation has not changed enough to warrant different withholding amounts,]~~ a new Notice to Withhold must be ~~[requested and served on]sent to~~ the new payor~~[- If the obligor notified the team of his new employer and the obligor's situation has changed, an assessment should be made prior to changing the previous withholding amounts. If the obligor did not notify the team of the new employer and became delinquent, the withholding amounts to the new employer may be changed based upon the best available information and]~~ in accordance with BCSS assessment procedures.~~[- When an obligor changes employers, a new Notice to Withhold must be requested and served:]~~

**R527-300-7. When the Obligor has More than one Case.**

If the obligor has a case with more than one obligee, one ~~[n]Notice to [w]Withhold~~ may be sent to the payor. The notice will include the combined total for all of the obligor's cases.

**R527-300-8. Income Withholding~~[-Suspension and] Termination.~~**

1. Income withholding should be terminated if:  
a. the obligor no longer has an obligation for current child support, and no longer has a debt to Utah or another state on whose behalf Utah is acting or to a Non-~~[AFDC]IV-A~~ obligee on whose behalf Utah is acting;

b. if the ~~[order was entered and not modified prior to January 1, 1994, and the] Non-~~[AFDC]IV-A~~ obligee terminates [in writing authorization for]the ORS case[to collect support on her behalf], income withholding was administratively implemented and the obligor no longer owes child support to Utah or other state on whose behalf Utah is acting, and the obligee does not want withholding to continue;~~

c. the obligor successfully contests the withholding which is currently in effect through the court or administrative [hearing] review process. If income withholding was terminated based on a court or administrative order and the obligor later becomes delinquent, [an advance notice shall be served.] income withholding will be reinstated.

[~~2. Suspension of a Notice to Withhold (NTW):~~

~~a. Payment of the obligor's past-due child support cannot be the sole reason for suspending a notice to withhold. There may be some instances where the notice to withhold may be suspended temporarily because current support is not being collected.~~

~~b. When temporarily suspending the notice to withhold, the team should inform the obligor in writing that the NFW will be reinstated automatically when the situation changes.~~

~~c. When the notice to withhold is to be reinstated, the office is not required to serve an advance notice. If the obligor's situation changes and current support is owed once again, the investigator should have the notice to withhold served on the obligor's payor of income.]~~

**KEY: child support, income, wages**

[~~1996~~1998

Notice of Continuation October 31, 1997[~~62A-11-404.5~~

62A-11-401

62A-11-405

62A-11-406

62A-11-413

62A-11-414



# Human Services, Recovery Services R527-301 Non IV-D Income Withholding

## NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20724

FILED: 02/02/98, 12:38

RECEIVED BY: NL

### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: To comply with federal requirements of welfare reform legislation, Section 62A-11-5 was amended. Because Rule R527-301 was enacted under provisions of this law, it is necessary that it be amended in conformance with the new legal requirements.

SUMMARY: Section 62A-11-504 of the Utah Code was reenacted to require either the clerk of the court or one of the parties to a child support order to notify a payor of income to commence income withholding. The income withholding check processing fee was eliminated when Section 62A-11-502 was amended. Consequently, the language in Section R527-301-1 which requires Recovery Services to notify the payor of the amount to be withheld including check processing fee has been deleted. Because Section 62A-11-505 only requires Recovery Services to document and

distribute Non- IV-D income withholding payments that are received, and because the Office has no legal responsibility for implementing or modifying a Non-IV-D withholding notice, modification of withholding amounts was added to Section R527-301-1 as a responsibility of the parents. Because immediate income withholding is now mandated by law, the requirement to request a judicial hearing for the purpose of obtaining an order for immediate income withholding has been deleted from Section R527-301-2. The law now allows either party to file an ex parte motion to obtain an order directing the clerk of the court or the requesting party to notify the payor of income to commence income withholding. Section R527-301-2 has been revised accordingly. In addition, the reference to the former Aid to Families with Dependent Children Program (AFDC) has been deleted from this section and replaced with the current title of the cash assistance program (IV-A assistance). "IV-D" was added to more accurately identify Recovery Services' child support services program. Section R527-301-3 has been deleted because it assumes that Recovery Services is responsible for establishing a Non-IV-D income withholding case and implementing income withholding. The legal cite for penalties that apply when a payor fails to comply with Non-IV-D income withholding has been updated in Section R527-301-5 (renumbered R527-301-4). All of the text in Section R527-301-6 (renumbered R527-301-5) has been deleted because Recovery Services has no responsibility for modification of a Non-IV-D income withholding amount. A sentence has been added to this section to clarify that a parent must either file a motion in court or apply for IV-D child support services to get an income withholding order modified. In Section R527-301-8 (renumbered R527-301-7), Subsection R527-301-8(1) and part of Subsection R527-301-8(2) have been deleted because these sections of text assume that Recovery Services is responsible for Non-IV-D income withholding and may terminate it. To conform with Section 62A-11-508, text has been added to this section that the obligee now has the responsibility to notify each payor of termination of income withholding.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 62A-11-502, 62A-11-504, 62A-11-506, and 62A-11-508

### ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Because Recovery Services is no longer required to send the notice to withhold to the payor of income, modify notices to withhold, and notify payors to terminate income withholding in non-IV-D cases, the state realizes a substantial savings. However, the elimination of the statutory obligor check processing fee results in a loss of revenue to the state although it still has the responsibility to receive and process non-IV-D payments received and issue payments to custodial parents.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Because one of the parents is now required to take necessary action to implement income withholding, send the notice to the payor of income, and take action to modify notices to withhold when appropriate, the costs involved are now borne by the moving parent. In addition, the custodial parent must also bear any costs

associated with notifying payors to terminate income withholding. The obligor, however realizes a savings due to the elimination of the statutory check processing fee.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because payors of income are already allowed under the law to deduct a fee to defray costs of withholding, earlier income withholding in most non-IV-D cases that results from this filing will not create additional compliance costs for them. Since child support obligors in non-IV-D cases are already required to pay support and are legally subject to income withholding, this filing will create no additional compliance costs for them.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Bldg  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hadmin.hsorssl.c.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.**

**R527-301. Non-IV-D Income Withholding.**

**R527-301-1. Responsibility of the Office of Recovery Services.**

The responsibility of the Office of Recovery Services is limited to [sending the notice to withhold to the employer in the amount specified in the support order plus the statutory check processing fee,]receiving the income withholding, processing the payment, issuing a payment to the custodial parent, and maintaining a payment record. Modifications to the support order or withholding amounts are the responsibility of the parents.

**R527-301-2. Child Support Order Does Not Require Immediate Income Withholding.**

Either party to the support order may pursue income withholding by [requesting a judicial hearing to]filing for an [σ]Order/Notice to Withhold in the court[immediate income withholding], by applying for IV-D child support enforcement services, or by receiving [AFDC]IV-A assistance.

**[R527-301-3. Incomplete Information Received From the Court.**

— If incomplete information is received from the court and the office is unable to proceed with income withholding, the office shall send the packet to the custodial parent, notifying that parent to

complete the packet and return it to the office in order to have income withholding implemented. The office shall not open a case ~~or implement income withholding until a complete packet is received:~~

]

**R527-301-[4]3. Collection of Child Care Expenses Through Income Withholding.**

Child care expenses shall not be collected through Non-IV-D Income Withholding.

**R527-301-[5]4. Enforcement of Notice to Withhold When Payor Fails to Comply.**

If a payor fails to comply with the Notice to Withhold, either the custodial parent or the non-custodial parent may proceed with judicial action against the employer to enforce the Notice to Withhold and to obtain a judgment in accordance with Subsections [406 (6) and (10);]506 (1)(f) (j) and (k).

**R527-301-[6]5. Modification of Income Withholding Amount.**

[1. The office shall modify the income withholding amount to account for one or more children reaching 18 years of age, or older if in high school and graduating with his/her normal graduating class, or the age specified in the order when either the custodial parent or the non-custodial parent provides written documentation, including the child support guidelines worksheet which was the basis for the original support order and a new worksheet based upon the reduction in the number of children covered by the support order.

— 2. If the office is notified that one or more children is 18 years of age, but the guidelines worksheet is not provided, the office shall not modify the withholding amount or pay the support to the custodial parent until the guidelines worksheet and written documentation required by this rule are provided. The parents shall be required to provide the guidelines worksheet within 30 calendar days. If the guidelines worksheet is provided within 30 calendar days, the office shall modify the income withholding amount within 30 days of receipt of the guidelines worksheet. If the guidelines worksheet is not provided within 30 calendar days, the office shall pay the support to the custodial parent. If the worksheet is provided after the 30 calendar days, the payments made to the custodial parent shall not be considered to be improperly withheld and shall not be repaid to the non-custodial parent by the office. When the support is paid to the custodial parent or repaid to the non-custodial parent, the office shall not pay interest to the party. Any arrangements for the custodial parent to pay the non-custodial parent any excess withheld shall be made between the parties.

— 3. If the custodial parent or the non-custodial parent notifies the office to modify the withholding amount and provides written documentation, including guidelines worksheets, and the office fails to notify the employer to modify the withholding amount within 30 calendar days of receipt of the guidelines worksheets and documentation, the office may be required to repay the non-custodial parent the excess support withheld. The office may seek reimbursement from the custodial parent for the amount repaid to the non-custodial parent.]If the Notice to Withhold needs to be modified for any reason, the parent must apply for IV-D services or file for an Order/Notice to Withhold in the court that issued the support order.

**R527-301-[7]6. Custodial Parent's Failure to Keep Office Notified of Mailing Address.**

The office shall hold income withholding payments for 60 calendar days after the office determines that the custodial parent's address is unknown. During this 60-day period, the office shall make one attempt to locate the custodial parent, using resources available to the office. If the custodial parent's address is still unknown at the end of 60 calendar days, the office shall refund the support to the non-custodial parent. The support shall not accrue interest during the time it is being held to locate the custodial parent.

**R527-301-[8]7. Termination of Income Withholding.**

~~[1. Upon notification by either the custodial parent or the non-custodial parent that all of the children covered by the court order have reached the age of 18 years or the age specified in the order, the office shall terminate income withholding.~~

~~— 2.—]At any time after the date income withholding begins, a party to the child support order may request a judicial hearing to determine whether income withholding should be terminated. If the court orders that income withholding should be terminated, [either party may provide the office with a certified copy of the order. Upon receipt of the order, the office shall give written notice of termination to the payor of income.]the obligee will provide written notice of termination to each payor of income.~~

**KEY: child support**  
**[1996]1998**

**62A-11-502**  
**62A-11-504**  
**62A-11-506**  
**62A-11-508**



**Human Services, Recovery Services**  
**R527-475**  
**State Tax Refund Intercept**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20725

FILED: 02/02/98, 12:38

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The purpose of this filing is to bring this rule into conformance with current federal policy regarding distribution of collections found at 42 U.S.C. 657, Section 302 of the Personal Responsibility Act of 1996, and OCSE-AT-97-17 (Office of Child Support Enforcement - Action Transmittal). In addition, it is necessary to make some wording changes in Subsection R527-475-1(3) to reference the Office's new Annual Notice of Past-due Child Support (which gives the obligor and unobligated spouse prior notice that the state tax refund may be intercepted) and to clarify that the 25 days the unobligated spouse has to

request his/her portion of the refund is from the date of the intercept, not from the date the notice is sent.

SUMMARY: The new title of the child support services section of the Office of Recovery Services (ORS/CSS) has been added to Subsection R527-475-1(1). Text has been added to Subsection R527-475-1(2) to conform with federal distribution of collections policy and specifies that intercepted state tax refunds are to be applied to current child support obligations first, then to support obligations owed to the state, and lastly to any arrearages owed to the obligee which are not assigned to the state. The reference to the Office of Recovery Services in Subsection R527-475-1(2) has been deleted and replaced with ORS/CSS and the references to Non-AFDC have been replaced with "Non-IV-A" since the Aid to Families with Dependent Children (AFDC) Program is defunct and has been replaced by the IV-A cash assistance program. Text has been added to Subsection R527-475-1(3) to specify that the new Annual Notice of Past-due Child Support will now serve to provide prior notice to the obligor and unobligated spouse that the state tax refund may be intercepted, and that the unobligated spouse has until 25 days after the time of intercept to request his/her portion of the refund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 59-10-529 and 30-3-10.6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Application of state tax refunds to current support first, rather than to past-due amounts owed to the state, will reduce (or delay) revenue to the state where past-due IV-A amounts are still owing but the custodial parent has opened a non-IV-A case.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Application of state tax refunds to current support first, rather than to past-due amounts owed to the state, will result in a savings (financial benefit) to non-IV-A custodial parents when the obligor still owes past-due IV-A amounts. Obligor may realize potential savings by responding to the annual notice and resolving support debts before state taxes are intercepted. Unobligated spouses who file jointly with obligors may also realize potential savings by responding appropriately to the annual notice or the tax information in the notice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since child support obligors are already required to pay support when it is due this filing will create no additional compliance costs for them.

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

Human Services  
Recovery Services  
Fourteenth Floor, Eaton/Kenway Bldg  
515 East 100 South  
PO Box 45011  
Salt Lake City, UT 84145-0011, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Wayne Braithwaite at the above address, by phone at (801) 536-8986, by FAX at (801) 536-8509, or by Internet E-mail at hsdadmin.hsorssl.c.wbraithw@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Emma Chacon, Director

Natural Resources; Oil, Gas and Mining; Non-Coal R647-1-106 Definitions

NOTICE OF PROPOSED RULE (Amendment) DAR FILE No.: 20727 FILED: 02/02/98, 16:24 RECEIVED BY: NL

R527. Human Services, Recovery Services. R527-475. State Tax Refund Intercept. R527-475-1. State Tax Refund Intercept.

1. Pursuant to Section 59-10-529(1), the Office of Recovery Services/Child Support Services (ORS/CSS) may intercept a state tax refund to recover delinquent child support. For a state tax refund to be intercepted, there must be an administrative or judicial judgment with a balance owing. An installment of child support is considered a judgment for purposes of Section 59-10-529 on and after the date it becomes due as provided in Section 30-3-10.6.

2. State tax refunds intercepted will first be applied to current support, second to satisfy obligations owed to the state and collected by [the Office of Recovery Services]ORS/CSS, and third [before any of the funds are applied]to [Non-AFDC]Non-IV-A arrearages. In accordance with 45 CFR 303.102, [Non-AFDC]Non-IV-A obligees must be notified upon application for child support services that state tax refunds intercepted will not be applied to arrearages owed to that obligee until all obligations owed to the state and collected by the Office of Recovery Services have been paid in full.

3. [The Office of Recovery Services]Annually, ORS/CSS shall [notify]mail prior written notice to the obligor who owes past-due support and the unobligated spouse that the state tax refund [has been received]may be intercepted by the Office. The notice shall advise the unobligated spouse of his/her right to receive a portion of the tax refund if the unobligated spouse [had]has earnings and [filed]files jointly with the obligor. If the unobligated spouse does not want his/her share of the tax refund to be applied to the obligated spouse's child support debt, the unobligated spouse shall make a written request and submit a copy of the tax return and W-2's to the office at any time after prior notice, but in no case later than [within] 25 days [of]after the date the office [sends the notice]intercepts the tax refund. The unobligated spouse's portion of the joint tax refund will be prorated according to the percentage of income reported on the W-2 forms for the tax year. If the unobligated spouse does not make a written request to the office to obtain his share of the tax refund within the specified time limit, the office shall not be required to pay any portion of the tax refund to the unobligated spouse.

KEY: child support [March 19, 1997]1998 59-10-529 Notice of Continuation June 15, 1995 30-3-10.6

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The purpose of this rule change is to clarify parts of the Utah Minerals Regulatory Program, in particular, these rules are designed to describe how definitions for sand, gravel, and rock aggregate are used in division application under Subsection 40-8-4(8)(b).

SUMMARY: This rule change adds definitions for "Sand," "Gravel," and "Rock Aggregate" to the Utah Minerals Regulatory Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 40-8-6

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: None. LOCAL GOVERNMENTS: None. OTHER PERSONS: None. COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Natural Resources Oil, Gas and Mining; Non-Coal Suite 1210, Natural Resources Building 1594 West North Temple PO Box 145801 Salt Lake City, UT 84114-5801, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Ronald W. Daniels at the above address, by phone at (801) 538-5316, by FAX at (801) 359-3940, or by Internet E-mail at rdaniels@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 02/25/98, 10:00 a.m., Suite 1040-A, 1594 West North Temple, Salt Lake City, UT 84114-5801.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Ronald W. Daniels, Coordinator of Minerals Research

**R647. Natural Resources; Oil, Gas and Mining; Non-Coal.****R647-1. Minerals Regulatory Program.****R647-1-106. Definitions.**

"Act" means the Utah Mined Land Reclamation Act, enacted in 1975, as amended. (Section 40-8-1, et seq., UCA).

"Adjudicative proceeding" means an agency action or proceeding that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and judicial review of all of such actions. Those matters not governed by Title 63, Chapter 46b, Administrative Procedures Act, of the Utah Code annotated (1953, as amended) shall not be included within this definition.

"Agency" means a board, commission, department, division, officer, council, office, committee, commission, bureau, or other administrative unit of this state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, but does not mean the Legislature, the courts, the governor, any political subdivision of the state, or any administrative unit of a political subdivision of the state.

"Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by statute.

"Amendment" is an insignificant change in the approved notice of intention.

"Approved Notice of Intention" means a formally filed notice of intention to commence mining operations, including any amendments or revisions thereto, which has been approved by the Division. An approved notice of intention is not required for exploration having a disturbed area of five or less surface acres, or for small mining operations.

"Board" means the Utah Board of Oil, Gas and Mining. The Board shall hear all appeals of adjudicative proceedings which commenced before the Division as well as all adjudicative proceedings and other proceedings which commence before the Board. The Board may appoint a Hearing Examiner for its hearings in accordance with the Rules of Practice and Procedure before the Board of Oil, Gas and Mining.

"Deleterious Materials" means earth, waste or introduced materials exposed by mining operations to air, water, weather or microbiological processes, which would likely produce chemical or physical conditions in the soils or water that are detrimental to the biota or hydrologic systems.

"Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated materials, solutions, or otherwise occurring on the surface, beneath the surface, or in the waters of the land from which any useful product may be produced, extracted or obtained, or which is extracted by underground mining methods for underground storage. "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water, geothermal steam, and oil and gas, but includes oil shale and bituminous sands extracted by mining operations.

"Development" means the work performed in relation to a deposit following its discovery, but prior to and in contemplation of production mining operations. Development includes, but is not limited to, preparing the site for mining operations; further defining the ore deposit by drilling or other means; conducting pilot plant operations; and constructing roads or ancillary facilities.

"Disturbed Area" means the surface land disturbed by mining operations. The disturbed area for small mining operations shall not exceed five acres. The disturbed area for large mining operations shall not exceed the acreage described in the approved notice of intention.

"Division" means the Utah Division of Oil, Gas and Mining. The Division Director or designee is the Presiding Officer for all informal adjudicative proceedings which commence before the Division in accordance with Rule R647-5.

"Exempt Mining Operations" means those mining operations which were previously exempt from the Act because less than 500 tons of material was mined in a period of twelve consecutive months or less than two acres of land was excavated or used as a disposal site in a period of twelve consecutive months. These exemptions were eliminated by statutory amendments in 1986 and are no longer available.

"Exploration" means surface disturbing activities conducted for the purpose of discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral deposit, and identifying regions or specific areas in which deposits or mineral deposits are most likely to exist. "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling holes; digging pits or cuts; building roads and other access ways.

"Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 2mm and 10mm, which has been deposited by sedimentary processes.

"Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including, but not limited to: (a) on-site private ways, roads, and railroads; (b) land excavations; (c) exploration sites; (d) drill sites or workings; (e) refuse banks or spoil piles; (f) evaporation or settling ponds; (g) stockpiles; (h) leaching dumps; (i) placer areas; (j) tailings ponds or dumps; (k) work, parking, storage, or waste discharge areas, structures, and facilities. Land affected does not include: (x) lands which have been reclaimed in accordance with an approved plan or as otherwise approved by the Board, (y) lands on which mining operations ceased prior to July 1, 1977, or (z) lands on which previously exempt mining operations ceased prior to April 29, 1989.

"Large Mining Operations" means mining operations which have a disturbed area of more than five surface acres at any time.

"License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by statute.

"Mining operations" means those activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, but not limited to, surface mining and the surface effects of underground and in situ mining; on-site transportation, concentrating, milling, evaporation, and other primary processing. "Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; the extraction of oil and gas; the extraction of geothermal steam; smelting or refining operations; off-site operations and transportation; or reconnaissance activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment such as bulldozers or backhoes.

"Notice of Intention" means a notice of intention to commence mining operations, including any amendments or revisions thereto.

"Off-site" means the land areas that are outside of or beyond the on-site land.

"On-site" means the surface lands on or under which surface or underground mining operations are conducted. A series of related properties under the control of a single operator but separated by small parcels of land controlled by others will be considered a single site unless excepted by the Division.

"Operator" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mining operation or proposed mining operation.

"Owner" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative of any kind, either public or private, owning, controlling, conducting, or managing a mineral deposit or the surface of lands employed in mining operations.

"Party" means the Board, Division or other person commencing an adjudicative proceeding, all respondents, all persons permitted by the Board to intervene in the proceeding, and all persons authorized by statute or agency rule to participate as parties in an adjudicative proceeding.

"Person" means an individual, group of individuals, partnership, corporation, association, political subdivision or its units, governmental subdivision or its units, public or private organization or entity of any character, or another agency.

"Presiding Officer" means an agency head, or an individual or body of individuals designated by the agency head, by the agency's rules, or by statute to conduct an adjudicative proceeding. For the purpose of these rules, the Board, or its appointed Hearing Examiner, shall be considered the Presiding Officer of all appeals of informal adjudicative proceedings which commenced before the Division as well as all adjudicative proceedings which commence before the Board. The Division Director or his/her designee shall be considered a Presiding Officer for all informal adjudicative proceedings which commence before the Division in accordance with this Rule R647-5. If fairness to the parties is not compromised, an agency may substitute one Presiding Officer for another during any proceeding.

"Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or otherwise treat the land affected in order to achieve a safe and ecologically stable condition and use which will be consistent with local environmental conditions and land management practices.

"Regrade or Grade" means to physically alter the topography of any land surface.

"Respondent" means any person against whom an adjudicative proceeding is initiated, whether by an agency or any other person.

"Revision" means a change to an approved Notice of Intention to Conduct Mining Operations, which will increase or decrease the amount of land affected, or alter the location and type of on-site surface facilities, such that the nature of the reclamation plan will differ substantially from that in the approved Notice of Intention.

"Rock Aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit, that were created by alluvial sedimentary processes. The definition of rock aggregate specifically excludes any solid rock

in the form of bedrock which is exposed at the surface of the earth or overlain by unconsolidated material.

"Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 1/16mm to 2mm, which has been deposited by sedimentary processes.

"Small Mining Operations" means mining operations which have a disturbed area of five or less surface acres at any time.

"Surface Mining" means mining conducted on the surface of the land including open pit, strip, or auger mining; dredging; quarrying; leaching; surface evaporation operations; reworking abandoned dumps and tailings and activities related thereto.

"Underground Mining" means mining carried out beneath the surface by means of shafts, tunnels or other underground mine openings.

**KEY: minerals reclamation**  
**[1994]1998**

**40-8-1 et seq.**



## Natural Resources, Water Resources **R653-2** Financial Assistance from the Board of Water Resources

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 20722

FILED: 02/02/98, 12:08

RECEIVED BY: NL

### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review process, the staff of the Division of Water Resources and the Attorney General's Office determined this rule should be amended to bring it into compliance with the existing statute and formatting and grammar changes should be made.

SUMMARY: The changes include revising the formatting and making some grammar corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 73-10-1

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Natural Resources

Water Resources

Suite 310, Natural Resources Building

1594 West North Temple  
 PO Box 146201  
 Salt Lake City, UT 84114-6201, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
 Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or by Internet E-mail at nrwres.nfullmer@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: D. Larry Anderson, Director

**R653. Natural Resources, Water Resources.**  
**R653-2. Financial Assistance from the Board of Water Resources.**  
**R653-2-1. Purpose.**

~~[Section 73-10-1(7) provides revolving funds to give]~~The purpose of this rule is to provide the standards and procedures for providing technical and financial assistance to water users to achieve the highest beneficial use of water resources within the state.

**R653-2-2. Description of Funding Program.**

(1)(a) The Board of Water Resources (Board) administers three revolving construction funds: the Revolving Construction Fund, the Cities Water Loan Fund, and the Conservation and Development Fund. Funding is available for projects that conserve, protect, or more efficiently use present water supplies, develop new water, or provide flood control. Project facilities may be constructed in another state if project water is to be used within the state of Utah.

~~[A-](b)~~ The Board will fund projects based on the following prioritization system:

~~[1-](i)~~ Projects which involve public health problems, safety problems, or emergencies.

~~[2-](ii)~~ Municipal water projects that are required to meet an existing or impending need.

~~[3-](iii)~~ Agricultural water projects that provide a significant economic benefit for the local area.

~~[4-](iv)~~ Projects which will receive a large portion of their funding from other sources.

~~[5-](v)~~ Projects not included in items 1-4, but which have been authorized by the Board, are funded on a first come first served basis.

(c) As part of the feasibility investigation, the Division of Water Resources (Division) staff will indicate which priority category (1-5) each project falls under.

~~[B-](2)~~ The Board will not fund the following types of projects:

~~[1-](a)~~ Projects that are, in the opinion of the Board, routine or regularly occurring system operation and maintenance.

~~[2-](b)~~ Domestic water systems where less than 50% of the residents live in the project area year-round.

~~[3-](c)~~ Projects sponsored by developers.

~~[E-](3)~~ General guidelines of each of the Board's funding programs are outlined as follows:

~~[1-](a)~~ Revolving Construction Fund (RCF)

~~[a-](i)~~ In the RCF, the Board will accept applications from incorporated groups such as mutual irrigation and water companies.

~~[b-](ii)~~ The RCF advances financial assistance to the following types of projects:

~~[1-](A)~~ Irrigation projects costing less than \$500,000.

~~[2-](B)~~ Rural culinary projects costing less than \$250,000 that involve mutual irrigation and water companies.

~~[3-](C)~~ Dam Safety Studies

~~[e-](iii)~~ The staff will recommend repayment terms ~~[and interest rates]~~ in the feasibility report.

~~[2-](b)~~ Cities Water Loan Fund (CWLF)

~~[a-](i)~~ The Board can provide loans through the CWLF for the construction of culinary water facilities for political subdivisions of the state.

~~[b-](ii)~~ The staff will recommend repayment terms and interest rates in the feasibility report.

~~[3-](c)~~ Conservation and Development Fund (CDF)

~~[a-](i)~~ Through the CDF, the Board may finance the construction of water projects sponsored by incorporated groups, political subdivisions of the state, another state, the federal government, or Indian tribes.

~~[b-](ii)~~ The staff will recommend repayment terms and interest rates in the feasibility report.

**R653-2-3. Application Procedure.**

~~[A-](1)~~ Applicants shall submit a completed application form directly to the member of the Board residing in the river district in which the project is located. If the Board member determines the application meets general Board guidelines, the Board member will sign the application and send it to the Division for action.

~~[B-](2)~~ The application must be received at the Division no later than three days prior to the Board meeting.

~~[E-](3)~~ Additional information not specifically requested on the application form should also be furnished when such information would be helpful in appraising the merits of the project.

~~[D-](4)~~ An application form can be obtained from the Division or from a Board member.

**R653-2-4. Project Approval Process.**

~~[A-]~~After the application for assistance has been completed by the sponsor/applicant and signed by the Board member, ~~[a]~~the following three-step process will be followed to determine those projects which will be funded by the Board~~[-]:~~

~~[B-]~~ ~~The three steps of the approval process are:~~

~~[1-](1)~~ Approval for Staff Investigation

~~[a-](a)~~ The Board will determine whether the proposed project falls within its general statutory authority.

~~[b-](b)~~ The project sponsor is not required to attend the Board meeting at which the project application is presented.

~~[c-](c)~~ As a condition of funding the sponsor will be required to prepare a "Water Management and Conservation Plan" (plan). If the project is approved for staff investigation the Division will

send a letter to the sponsor outlining the items that the Board suggests be considered in the plan.

[2-](2) Authorization

[a-](a) A feasibility report will be presented to the Board which takes into consideration the physical, engineering, legal, economic, and environmental factors affecting the project.

[b-](b) The Board will consider the project for authorization on the basis of its merits and overall feasibility and the contribution the project will make to the general economy of the area and the state.

[c-](c) As part of its decision-making process, the Board considers it important to discuss the merits of the project with the sponsor. Therefore, the project sponsor must attend the Board meeting when the project is considered for authorization.

[d-](d) If the project is AUTHORIZED by the Board, a letter outlining the engineering and legal requirements for the project and the conditions of the financial assistance will be sent to the sponsor.

[3-](3) Committal of Funds

[a-](a) After the sponsor has complied with the Board requirements and conditions, the project will be presented for final review. If the Board finds the project to be in order and ready for construction and IF FUNDS ARE AVAILABLE, the Board will commit funds and authorize its officers to enter into the necessary agreements to secure project financing.

[b-](b) Normally, the project sponsor is not required to attend the Board meeting at which funds are to be committed for the project. However, if the project scope or cost estimate has changed substantially, the sponsor may be asked to attend the meeting to discuss the changes with the Board.

**R653-2-5. Dam Safety Grants and Loans.**

[A-](1) After the application for assistance has been completed and signed by the Board member the application will be submitted to the Division for review. The Division staff will review the application for compliance with the Dam Safety Act and requirements, if any, placed on the sponsor by the State Engineer.

[B-](2) A report will be prepared by the Division presenting its findings and recommending the amount of the grant and repayment terms for loans.

[F-](3) Grants will be considered when money is appropriated by the legislature and will be restricted by limitations placed on the funding by the legislature and Board.

[2-](4) The amount of each grant will be based on conditions determined by the legislature on the money appropriated, and/or by analysis of such items as the number of acres irrigated, the number of water users, the size of the reservoir, the use of the waters, and cost of the proposed improvements.

**R653-2-6. Financial Arrangements.**

[A-](1) Project Cost Sharing

[F-](a) The Board desires to optimize available funding for the overall water development programs of the state and therefore requires sponsors to share in the cost of the project.

[2-](b) The sponsor's financial ability to cost share will be determined in the project investigation. On the basis of the investigation, the Division will recommend to the Board the portion of the project cost to be furnished by the sponsoring organization. Generally, the sponsor will be expected to provide 15%-25% of the project cost.

[3-](c) If additional funds become available to the sponsor after the project is authorized and if project costs do not increase, the additional funds will be used to reduce the Board's financial participation.

[B-](2) Alternate Financing

The Board will consider alternative project funding methods such as letters of credit, bond insurance, and various methods of interest buydown, instead of directly funding construction of project features.

[C-](3) Repayment of Financial Assistance

[F-](a) Generally, the repayment period will be less than 25 years.

[2-](b) The minimum annual cost of water for municipal projects will be 1.15% of the region or project area annual median adjusted gross income.

[3-](c) When annual payments are to be made with revenues from the sale or use of project water, the Board may allow the sponsor one year's use of the project before the first payment is due.

[D-](4) Security Arrangements

[F-](a) Depending upon the type of organization sponsoring the project and the Board fund involved, financial assistance may be secured either by a purchase agreement or bond issue.

[a-](i) Projects financed through the Revolving Construction Fund must be secured by a purchase agreement.

[b-](ii) Projects financed through the Cities Water Loan Fund or the Conservation and Development Fund will be secured either by a purchase agreement or by the sale of a bond.

[2-](b) If project financing is secured by a purchase agreement, the following conditions apply:

[a-](i) The Board must take title to the project including water rights, easements, deeded land for project facilities, and other assets subject to security interest.

[b-](ii) An opinion from the sponsor's attorney must be submitted stating the sponsor has complied with its articles and bylaws, state law, and the Board's contractual requirements.

[c-](iii) Title to the project shall be returned to the sponsor upon the successful completion of the purchase agreement.

[3-](c) If project financing is secured by the sale of a bond, the following conditions apply:

[a-](i) The procedures for bond approval will be substantially the same as required by the Utah Municipal Bond Act[-]; and

[b-](ii) If the sponsor desires to issue a non-voted revenue bond, the sponsor will be required to:

[F-](A) Hold a public meeting to describe the project and its need, cost, and effect on water rates[-]; and

[2-](B) Give written notice describing the proposed project to all water users in the sponsor's service area. The notice shall include a solicitation of response to the proposed project. A copy of all written responses received by the sponsor shall be forwarded to the Division. If the area Board member determines there is substantial opposition to the project, the Board may require the sponsor to hold a bond election before funds will be made available.

**R653-2-7. Project Engineering and Construction.**

[A-](1) Engineering

To expedite projects and facilitate the coordination of project development, sponsors are encouraged to select a design engineer prior to making application to the Board.

[B-](2) Staff and Legal Costs

[1-](a) Costs incurred by the Division for investigation, administration, engineering, and construction inspection will be paid to the Board according to the terms set by the Board.

[2-](b) Costs incurred by the Division during preliminary project investigation will not become a charge to the sponsor if the project is found infeasible, denied by the Board, or if the sponsor withdraws the application.

[3-](c) Legal fees incurred in the review of a sponsor's bonding documents will be billed directly to the sponsor by the legal firm doing the review for the Board.

[E-](3) Design Standards and Approval

[1-](a) All projects funded by the Board shall be designed according to appropriate technical standards and shall be stamped and signed by a Utah registered professional engineer responsible for the work.

[2-](b) Prior to soliciting construction bids, plans and specifications must be approved by the Division and all other state and federal agencies which have regulatory or funding involvement in the project.

[D-](4) Project Bidding and Construction

[1-](a) The Board desires that all project construction be awarded to qualified contractors based on competitive bids. The Board may waive this requirement and allow a sponsor to act as its own contractor on small projects. However, in all cases the sponsor must comply with the laws governing its operation as well as the statutory requirements placed on the Board and Division.

[2-](b) The design engineer shall coordinate the project bidding process.

[3-](c) Construction inspection will be performed under the direction of the registered professional engineer having responsible charge of project construction.

.....

KEY: water funding\*

[February 1, 1996]1998 73-10-[8]1  
Notice of Continuation December 23, 1997[-----73-10-23]



Natural Resources, Water Resources

R653-4

Investigation Account

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 20694

FILED: 01/22/98, 14:21

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: During the five-year review process, the staff of the Division of Water Resources and the Attorney General's Office determined this rule regarding the Investigation Account should be amended to bring it into compliance with the existing statute and formatting and grammar changes should be made.

SUMMARY: The changes include omitting references to the Water and Power Board, not listing specific uses for the moneys in the account, revising the formatting, and making some grammar corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 73-10-8

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Natural Resources  
Water Resources  
Suite 310, Natural Resources Building  
1594 West North Temple  
PO Box 146201  
Salt Lake City, UT 84114-6201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or by Internet E-mail at nrwres.nfullmer@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: D. Larry Anderson, Director

R653. Natural Resources, Water Resources.

R653-4. Investigation Account.

R653-4-1. Authority and Purpose for the Account.

[A-](1) The Water Resources Investigation Account was established by the legislature in 1953 and is authorized under Section 73-10-8.

[B-] The Account was set up as part of, and is to be used in conjunction with the Water and Power Board Construction Fund and later amended to include application to the Water Resources Conservation and Development Fund.

[C-](2) The purpose of the Account is to provide moneys for [special studies, investigations, engineering, inspections, and other expenses relating to the conservation and development of the waters of the State of Utah as provided under Title 73, Chapter 10.]those purposes prescribed in Subsection 73-10-8(2).

R653-4-2. General Guidelines for Use of the Account.

[A-](1) The funds from this Account will be used for projects which the Board of Water Resources deems eligible under the criteria for the [Water and Power Board]Board of Water Resources Construction Fund and the Water Resources Conservation and Development Fund. When the Investigation Account is used for

this purpose, the Account will be reimbursed from repayment obtained for the project, provided the project is authorized.

~~(B-)~~(2) The Investigation Account may also be used to fund special studies and investigations which relate to the State water planning effort as determined by the Board of Water Resources or the Director of the Division of Water Resources.

~~(C-)~~(3) Investigation Account funds have been and will continue to be used for, hiring consultants, paying salaries and expenses of staff personnel, subsurface investigations of dam sites and wells, hydrologic and water quality data collections, purchasing technical equipment for use in investigations and construction of water projects, working with the Federal Government on various studies requested by it, and performing environmental studies.

**KEY: water conservation, water policy**  
**199[2]8**  
**Notice of Continuation December 23, 1997**

73-10-8



Natural Resources, Water Resources  
**R653-8**  
 Flaming Gorge Water Right Segregation

**NOTICE OF PROPOSED RULE**  
 (New)  
 DAR FILE No.: 20717  
 FILED: 01/30/98, 10:51  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The Board of Water Resources has determined it is in the best interest of the state to segregate portions of its Flaming Gorge Water Right No. 41-3479 (A30414d) to those entities qualifying under the provisions of this rule. Any political subdivision of the state, agency of the federal government, or nonprofit water company may apply as provided in the rule.

SUMMARY: This rule establishes the priorities and procedures for segregating portions of the Flaming Gorge Water Right No. 41-3479 (A30414d) owned by the Board of Water Resources.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 73-10-26

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None.
  - ❖ LOCAL GOVERNMENTS: None.
  - ❖ OTHER PERSONS: None.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 Natural Resources

Water Resources  
 Suite 310, Natural Resources Building  
 1594 West North Temple  
 PO Box 146201  
 Salt Lake City, UT 84114-6201, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
 Nancy Fullmer at the above address, by phone at (801) 538-7251, by FAX at (801) 538-7279, or by Internet E-mail at [nrwres.nfullmer@state.ut.us](mailto:nrwres.nfullmer@state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: D. Larry Anderson, Director

**R653. Natural Resources, Water Resources.**  
**R653-8. Flaming Gorge Water Right Segregation.**  
**R653-8-1. Purpose.**

This rule establishes the priorities and procedures for segregating portions of water right No. 41-3479 (A30414d) owned by the Board of Water Resources. The Board of Water Resources has determined that it is in the best interest of the state to segregate portions of this water right to those entities qualifying under the provisions of this rule. Any political subdivision of the state, agency of the federal government, or nonprofit water company may apply as provided herein.

**R653-8-2. Definitions.**

- (1) "Board" means the Board of Water Resources.
- (2) "Division" means the Utah Division of Water Resources.
- (3) "Political subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, or any other entity constituting a political subdivision under the laws of Utah.

**R653-8-3. Priority Policy.**

- (1)(a) The Board shall give preference to applications based upon the following order of priorities:
  - (i) Proposed water uses involving public health, safety, and welfare;
  - (ii) Political subdivisions requesting water rights for municipal and industrial water uses required to meet existing or future (approximately 30 years) reasonable requirements;
  - (iii) Agricultural water projects providing a significant economic benefit to a local community. Supplemental water supplies for agricultural lands are given priority over full water supplies for new irrigation land; and
  - (iv) Applications submitted for a private development located outside the boundaries, or proposed boundaries, of a political subdivision that provides municipal and industrial water service. The application must be accompanied by a letter from the county commission of each county where the proposed place of use is located supporting the proposed development and request for water.

(b) Notwithstanding the priorities prescribed in Subsection (a), the Board reserves the right to approve or deny any application in the interest of the state or any other prudent or rational basis.

(2) The Board will not accept applications for:

(a) a mining or gravel pit operation;

(b) a private development located within the boundaries of a political subdivision that provides water service; or

(c) a private development located outside the boundaries, or proposed boundaries, of a political subdivision that provides municipal and industrial water service unless the county commission of each county where the proposed place of use is located sends a letter supporting the proposed development and request for water.

**R653-8-4. Administrative Procedures.**

(1) Approved applications are limited to a depletion amount.

(2) Each applicant, except political subdivisions, are given up to three years to complete the project and prove up on the water right. Prior to the expiration of the three year period, the Board may, upon request, grant an extension of time not to exceed two years to prove up on the water right.

(3) The Board will send a public notice announcing it will accept applications for its Flaming Gorge Water Right through July 1, 1998. The Board reserves the right to accept applications after that date if additional water becomes available.

(4) The Board will not act on any application until division staff has investigated each of the applications received and submitted reports and recommendations to the Board for its consideration. The Board will act on the applications after July 1, 1998.

**KEY: water policy, water development\***  
**1998**

**73-10-26**



Natural Resources, Wildlife Resources  
**R657-43**  
General Season Landowner Deer Permits

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20700

FILED: 01/27/98, 17:09

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: This rule is being amended to provide standards and procedures for private landowners to obtain general deer permits in the Southern region for the 1998 general deer hunt, and to provide standards and procedures for private landowners to obtain landowner permits for taking bull elk, buck deer, or buck pronghorn within a limited entry unit. The intent of the limited entry landowner permit is to provide an opportunity for

landowners to be allocated a restricted number of permits for a specific unit. Allowing landowners a restricted number of permits: (a) encourages landowners to manage their land for wildlife; (b) compensates the landowner for providing private land as habitat for wildlife; and (c) allows the Division to increase big game numbers on specific units.

SUMMARY: This amendment changes the title from "General Season Landowner Deer Permits" to "Landowner Permits." Provisions of this rule are amended to provide an opportunity for landowners, whose property provides valuable habitat for deer, to: obtain general deer permits for the 1998 general deer hunt, and add provisions to obtain limited entry permits for a specific unit for taking bull elk, buck deer, or buck pronghorn. In addition, this amendment provides definitions for: "limited entry unit" and "voucher," and clarifies the definition of "eligible property."

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The landowner permit program provides a large savings to the Division of Wildlife Resources. This savings comes from the landowner using the landowner permit program versus the depredation program. Landowners who receive landowner permits must take into account any revenue received in accordance with Subsection 23-16-3.5(3)(c), which states: "In determining appropriate mitigation, the Division shall consider: (i) the extent of damage experienced or expected; and (ii) any revenue the landowner derives from participation in a Cooperative Wildlife Management unit, use of landowner permits and charging for hunter access. Therefore, when the landowners use the landowner permit program, the division pays less in damage claims through the depredation program. The cost of this program to the Division is minimal, which involves administrative costs in administering and maintaining the program.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Landowners are required to purchase the general landowner deer permit(s). Limited entry landowner permits must be purchased by the person who has been designated a voucher to obtain such permit.

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

Natural Resources  
Wildlife Resources  
Suite 2110  
1594 West North Temple  
PO Box 146301  
Salt Lake City, UT 84114-6301, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or by Internet E-mail at nrdwr.dsundell@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: John Kimball, Acting Director

**R657. Natural Resources, Wildlife Resources.**

**R657-43. [General Season-]Landowner [Deer-]Permits.**

**R657-43-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, this rule provides the standards and procedures for private landowners to obtain landowner permits for:

(a) taking buck deer in the Southern region for the [1997 season only-]1998 general deer hunt only; and

(b) taking bull elk, buck deer or buck pronghorn within a limited entry unit.

(2) In addition to this rule, any person who receives a landowner permit must abide by Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(3) The intent of the general [season-]landowner deer permit is to provide an opportunity for landowners or their immediate family, whose property provides valuable habitat for deer, to hunt deer during the general [season-]deer hunt. The general [season-]landowner buck deer permits will be available for the Southern region only.

[All limited entry units and big game posted hunting units are ineligible for general season landowner buck deer permits.](4) The intent of the limited entry landowner permit is to provide an opportunity for landowners to be allocated a restricted number of permits for a specific unit. Allowing landowners a restricted number of permits:

(a) encourages landowners to manage their land for wildlife;

(b) compensates the landowner for providing private land as habitat for wildlife; and

(c) allows the Division to increase big game numbers on specific units.

**R657-43-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) ["Eligible property" means:] "Eligible property" means:

[(i) a minimum of 640 acres or more of private non-cropland owned by one landowner within the designated region;

—(ii)(i) private land that provides valuable habitat for deer, elk or pronghorn as determined by the Division of Wildlife Resources;

[and](ii) land in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Sections 59-2-503 and 59-2-504; and

[(iii) property qualifying under the Utah Farmland Assessment Act (Greenbelt);(iii) a minimum of 640 acres or more of private non-cropland owned by one landowner within the designated region for general deer permits; or

[(b) "Landowner" (iv) private land, including crop land owned by members of a landowner association for limited entry permits.

(b) "Landowner" means any individual, family, or corporation who owns property in Utah and whose name appears on a deed as

the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(c) ["Lessee"] "Landowner association" means an organization of private landowners who own property within a limited entry unit, organized for the purpose of working with the Division.

(d) "Lessee" means any person, partnership, or corporation whose name appears as the Lessee on a written lease, for at least a one-year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.

(e) "Limited entry unit" means a specified geographical area that is closed to hunting deer, elk or pronghorn to any person who has not obtained a valid permit to hunt in that unit.

(f) "Immediate family" means the landowner's [(d) "Immediate family" means the landowner's] spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.

(g) "Voucher" means a document issued by the Division to a landowner, landowner association, or Cooperative Wildlife Management Unit operator, allowing a landowner, landowner association, or Cooperative Wildlife Management Unit operator to designate who may purchase a landowner big game hunting permit from a Division office.

**R657-43-3. Qualifications for General Permits.**

(1) The director, upon approval of the Wildlife Board, may establish a number of buck deer permits within the southern region to be offered to eligible landowners for the [1997]1998 general deer hunting season only.

(2) Only private lands will be considered for general landowner permits. Public or state lands are not eligible.

(3) [Landowner]General landowner permits are limited to resident or nonresident landowners, corporations, lessees, and members of their immediate family[;] that own land in Utah.

**R657-43-4. [Application for Landowner-]Qualifications for Limited Entry Permits.**

(1) The Director, upon approval of the Wildlife Board, may establish a number of bull elk, buck deer and buck pronghorn limited entry permits to be offered to an eligible landowner association.

(2) Limited entry landowner permits are available for taking buck deer, bull elk or buck pronghorn, and may only be used on designated limited entry units.

(3) Only private lands that do not qualify for Cooperative Wildlife Management Units will be considered for limited entry landowner permits. Public or state lands are not eligible.

(4) Only private lands that qualify as eligible property will be considered for limited entry landowner permits.

(5) Applications for limited entry landowner permits will be received from landowner associations only.

(6) Only one landowner association may be formed for each limited entry unit as follows:

(a) A landowner association may be formed only if a simple majority of landowners, representing 51 percent of the eligible private lands within the herd unit, enter into a written agreement to form the association.

(b) The association may not unreasonably restrict membership to other qualified landowners in the unit.

(c) Each landowner association must elect a chairperson to represent the landowner association.

(d) The landowner association chairperson shall act as liaison with the Division and the Wildlife Board.

(e) A landowner or landowner association may not restrict legal established passage through private land to access public lands for the purpose of hunting.

**R657-43-5. Application for General Permits.**

(1) Applications for general landowner permits are available from ~~[division]~~Division offices.

(2) Only one representative landowner may submit an application for lands within the Southern region that qualify for general landowner permits.

(3) In cases where more than one application is received for the same parcel of land, all applications will be rejected.

(4) Applications must include:

(a) total acres owned within the Southern region;

(b) signature of the landowner; and

(c) location of the private lands, acres owned, county[?] and region.

(5) A \$5 non-refundable handling fee must accompany each application.

(6) Applications will be available ~~[March 18]~~by January 7.

(7) Applications must be completed and returned to the regional ~~[division]~~Division office by ~~[April 15]~~May 8.

(8) Signature on the application will serve as an affidavit certifying ownership.

**R657-43-6. Application for Limited Entry Permits.**

(1) Applications for limited entry landowner permits are available from Division offices and from Division wildlife biologists.

(2) Applications to receive limited entry landowner permits must be submitted by a landowner association for lands within the limited entry hunt unit where the private lands are located.

(3) Applications must include:

(a) total acres owned by the association within the limited entry hunting unit and a map indicating the privately owned big game habitat;

(b) signature of each of the landowners within the association including acres owned;

(c) signature on the application will serve as an affidavit certifying ownership;

(d) a distribution plan for the allocation of limited entry permits by the association;

(e) a copy of the association by-laws; and

(f) a \$5 non-refundable handling fee.

(4) The Division shall, upon request of the applicant, provide assistance in preparing the application.

(5) Applications must be completed and returned to the Division wildlife biologist in the appropriate region by September 1 annually.

(6) The Division shall forward the application and other documentation to the Regional Wildlife Advisory Councils for public review.

(7) Recommendations by the Councils will then be forwarded to the Wildlife Board for review and action.

(8) Upon approval by the Wildlife Board, a Certificate of Registration will be issued to the landowner association.

**R657-43-7. General ~~[R657-43-5:]~~Permits and Season Dates.**

(1) The following number of general permits may be available to a landowner:

(a) one general permit may be issued for eligible property of 640 acres; and

(b) one additional general permit may be issued for eligible property for each additional 640 acres.

(2) ~~[Permits]~~General permits issued to landowners shall be included in the total hunt ~~[unit]~~area allocation.

(3) Permittees may select only one ~~[season]~~general permit (archery, rifle[?] or muzzleloader) as provided in the proclamation of the Wildlife Board for taking big game.

(4) ~~[Landowner]~~General landowner permits are for landowner use only and may not be transferred.

(5) Any person who is issued a general landowner permit must follow season dates, weapon restrictions[?] and any other regulations as provided in the proclamation of the Wildlife Board for taking big game.

(6) A general landowner permit holder may take only one buck deer within the Southern region during any one year.

(7) A general landowner permit authorizes the permittee to hunt within the Southern region, where the eligible property is located.

(8) The fee for a general landowner permit is the same as the fee for a general season ~~[buck deer permit]~~, general archery or general muzzleloader buck deer permit.

**R657-43-8. Limited Entry Permits and Season Dates.**

(1) Only bull elk, buck deer or buck pronghorn limited entry permits may be applied for by the landowner association.

(2)(a) The Division regional biologist and landowner chairperson shall jointly recommend the number of permits to be issued to the landowner association.

(b) When consensus between the landowner chairperson and the regional biologist is not reached, applications shall include justification for permit numbers for review by the Wildlife Regional Advisory Councils and the Wildlife Board.

(3) Permit numbers shall fall within the herd unit management guidelines. Permit numbers will be based on:

(a) the percent of private land big game habitat within the unit that is used by wildlife; or

(b) the percentage of use by wildlife on the private lands.

(4) Landowners receiving vouchers may personally use the vouchers or reassign the vouchers to any legal hunter.

(5) All landowners who receive vouchers, and transfer the vouchers to other hunters must:

(a) allow those hunters receiving the vouchers access to their private lands for hunting; and

(b) allow the same number of public hunters with valid permits, equal to the number of vouchers transferred, to access the landowner association's private land for hunting during the appropriate limited entry bull elk, buck deer or buck pronghorn hunting season, except as provided in Subsection (6).

(6)(a) Landowners who transfer vouchers to other hunters may deny public hunters access to the landowner association's private

land for hunting by requesting, through the landowner association, a variance to Subsection (5)(b) from the Wildlife Board.

(b) The requested variance must be provided by the landowner association in writing to the division 30 days prior to the appropriate Regional Advisory Council meeting scheduled to review Rule R657-5 and the Bucks, Bulls and Once-in-a-lifetime proclamation of the Wildlife Board for taking big game.

(c) The written and oral variance request must be presented by the landowner association to the appropriate local Regional Wildlife Advisory Council. The local Regional Wildlife Advisory Council shall forward a recommendation to the Wildlife Board for consideration and action.

(7) Any person who is issued a limited entry landowner permit must follow the season dates, weapon restrictions and any other regulations governing the taking of big game as specified in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(8) A limited entry landowner permit authorizes the permittee to hunt within the limited entry unit where the eligible property is located.

(9) Nothing in this rule shall be construed to allow any person, including a landowner, to take more than one buck deer, one bull elk or one buck pronghorn during any one year.

**R657-43-9. Limited Entry Permit Allocation and Fees.**

(1) Upon approval of the Wildlife Board, the Division shall issue vouchers to landowner associations that may be used to purchase limited entry permits from Division offices.

(2) The fee for any limited entry landowner permit is the same as the cost of similar limited entry buck deer, bull elk or buck pronghorn limited entry permits.

**R657-43-10. Limited Entry Permit Conflict Resolution.**

(1)(a) If landowners representing a simple majority of the private land within a landowner association are not able to resolve any dispute or conflict arising from the distribution of permits or other disagreement within its discretion and arising from the operation of the landowner association, the permits allocated to the landowner association shall be made available to the general public by the Division.

(b) Landowner associations may be eligible to receive landowner permits in subsequent years if the landowner association resolves the conflict or dispute by a simple majority of the landowners.

(2) The Division shall not issue landowner permits to a landowner association that has not complied with the provisions of this rule.

**KEY: wildlife, landowner permits\*, big game seasons\*  
[March 18, 1997]1998 23-14-18  
23-14-19**



Public Safety, Fire Marshal  
**R710-2**  
Rules Pursuant to the Utah Fireworks Act

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20712

FILED: 01/30/98, 10:15

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The Utah Fire Prevention Board met and proposed that Rule R710-2, "Rules Pursuant to the Utah Fireworks Act," be updated and amended. This was to update one incorporated reference, the Uniform Fire Code, Volume 1, 1997 edition, and make some explanatory and grammatical changes.

SUMMARY: With the adoption of the Uniform Fire Code, Volume 1, 1997 edition, which became effective statewide in Rule R710-9 on January 15, 1998, the following changes were necessary to Rule R710-2 as follows: (1) In Section R710-2-1.1 - the 1997 edition of the Uniform Fire Code, Volume 1, is adopted and incorporated by reference rather than the 1994 edition; (2) In Section R710-2-1.2 - National Fire Protection Association (NFPA), Standard 1123, "Code for Fireworks Display," 1995 edition, received some explanatory and grammatical corrections; and (3) In Section R710-2-1.3 - NFPA, Standard 1126, "Use of Pyrotechnics Before a Proximate Audience," 1992 edition, also received some explanatory and grammatical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 53-7-204 and 53-7-220 through 53-7-225

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Uniform Fire Code, Volume 1, 1997 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None .

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Public Safety  
Fire Marshal  
Suite 302  
5272 South College Drive  
Murray, UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

"UCA" means Utah Code Annotated.  
"UFC" means Uniform Fire Code.

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

**KEY: fireworks**  
**[1996]March 18, 1998**  
**Notice of Continuation June 19, 1997**

53-7-204

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal



Public Safety, Fire Marshal  
**R710-3**  
Residential Care and Assisted Living  
Facilities

**R710. Public Safety, Fire Marshal.**  
**R710-2. Rules Pursuant to the Utah Fireworks Act.**  
**R710-2-1. Adoption.**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 20713  
FILED: 01/30/98, 10:15  
RECEIVED BY: NL

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts rules establishing minimum safety standards for retail storage, handling, and sale of class C common state approved explosives; minimum requirements for placement and discharge of display fireworks; and requirements for importer, wholesaler, display or special effects operator licenses.

**RULE ANALYSIS**

There is further adopted as part of these rules the following codes which are incorporated by reference:

PURPOSE OF OR REASON FOR THIS FILING: The Utah Fire Prevention Board met and proposed that Rule R710-3, "Residential Care and Assisted Living Facilities," be updated and amended. This was to update two incorporated references, the Uniform Fire Code, Volume 1, 1997 edition, and the Uniform Building Code, Volume 1, 1997 edition. With the adoption of the Uniform Fire Code, Volume 1, 1997 edition, under Rule R710-9, which became effective statewide on January 15, 1998, and the adoption of the Uniform Building Code, Volume 1, 1997 edition, as adopted by the Uniform Building Standards Act, which became effective statewide on January 1, 1998, the changes to this rule became necessary.

1.1 Uniform Fire Code (UFC), Volume 1, [1994 edition,] Article 78, 1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-2-9, et seq.

SUMMARY: R710-3 is proposed to be amended as follows: In Section R710-3-1.1, the 1997 edition of the Uniform Fire Code, Volume 1, is adopted and incorporated by reference rather than the 1994 edition; in Section R710-3-1.2, the 1997 edition of the Uniform Building Code, Volume 1, is adopted and incorporated by reference rather than the 1994 edition; in Section R710-3-1.2.1, the 1997 Uniform Building Code, Volume 1, Appendix Chapter 3, is adopted and incorporated by reference, rather the 1994 edition of the Appendix; there are also small explanatory and grammatical changes to make the rule easier to read and understand.

1.2 National Fire Protection Association (NFPA), Standard 1123, Code for Fireworks Display, 1995 edition, as published by the National Fire Protection Association, except as amended by provisions listed in R710-2-9, et seq.

1.3 National Fire Protection Association (NFPA), Standard 1126, Use of Pyrotechnics Before a Proximate Audience, 1992 edition, as published by the National Fire Protection Association, except as amended by provisions listed in R710-2-9, et seq.

1.4 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal's Office.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-7-204

"Authority having jurisdiction (AHJ)" means such county and municipal officers who are charged with the enforcement of state and municipal laws; consisting of all fire enforcement officials including designated staff from the Utah State Department of Public Safety.

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Uniform Fire Code, Volume 1, 1997 edition, and Uniform Building Code, Volume 1, 1997 edition

"IFCI" means International Fire Code Institute.

"NFPA" means National Fire Protection Association.

"Permanent structure" means a non-movable building, securely attached to a foundation, housing a business.

"Person" means an individual, company, partnership or corporation.

"Resale" means the act of reselling class B or C explosives to a new party.

"SFM" means the State Fire Marshal.

"Temporary Stands and Trailers" means a non-permanent structure used exclusively for the sale of fireworks.

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None .

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Public Safety  
 Fire Marshal  
 Suite 302  
 5272 South College Drive  
 Murray, UT 84123-2611, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

**R710. Public Safety, Fire Marshal.**

**R710-3. Residential Care and Assisted Living Facilities.**

**R710-3-1. Introduction.**

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts for the purpose of establishing minimum standards for prevention of fire and for the protection of life and property against fire and panic in residential care and assisted living facilities.

There is adopted as part of these rules the following codes which are incorporated by reference:

1.1 Uniform Fire Code (UFC), Volume 1, [~~1994~~]1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-3-3, et. seq.

1.2 Uniform Building Code (UBC), Volume 1, 1997[~~1994~~] edition, as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, [~~referenced in~~]Title 58, Chapter 56, Section 4, Utah Code Annotated 1953.

1.2.1 Uniform Building Code (UBC), Volume 1, Appendix Chapter 3, Division IV - Requirements for Group R, Division 4 Occupancies, 1997 edition, as referenced in Statewide Amendment, Uniform Building Code, effective March 5, 1992.

1.3 Copies of the above code are on file in the Office of Administrative Rules and the State Fire Marshal.

**R710-3-2. Definitions.**

"Ambulatory" means a person who is capable of achieving mobility sufficient to exit without the assistance of another person.

"Assisted Living Facility" means a residential facility licensed by the Department of Health that provides personal and health care services 24 hours a day to residents who meet the definition of semi-independent. All Assisted Living Facilities shall be licensed by the proper licensing authority. Assisted Living Facilities shall be classified as follows:

A. "Limited Capacity Assisted Living Facility" means a facility accommodating not more than five residents, excluding staff.

B. "Small Assisted Living Facility" means a facility accommodating more than five and not more than sixteen residents, excluding staff.

C. "Large Assisted Living Facility" means a facility accommodating more than sixteen residents.

"Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

"Board" means Utah Fire Prevention Board.

"ICBO" means International Conference of Building Officials.

"IFCI" means International Fire Code Institute.

"Licensing Authority" means the Utah Department of Health or the Utah Department of Human Services.

"Residential Care Facility" means a facility that provides a protected living arrangement to include sleeping accommodations for ambulatory, nonrestrained persons who may have a mental or physical impairment requiring supervision. Residential Care Facilities shall be licensed by the Utah Department of Health or the Utah Department of Human Services. Residential care facilities shall be classified as follows:

A. "Limited Capacity Residential Care Facility" means a facility accommodating not more than five residents, excluding staff.

B. "Small Residential Care Facility" means a facility accommodating more than five[~~(5)~~] and not more than sixteen residents, excluding staff.

C. "Large Residential Care Facility" means a facility accommodating more than sixteen residents.

"Semi-independent" means a person who is:

A. physically disabled but able to direct his or her own care; or

B. cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

"SFM" means State Fire Marshal.

"UBC" means Uniform Building Code.

"UFC" means Uniform Fire Code.

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**KEY: residential care/assisted living**  
**[September 8, 1997]March 18, 1998**  
**Notice of Continuation June 19, 1997**

53-7-204

Public Safety, Fire Marshal  
**R710-4**  
Buildings Under the Jurisdiction of the  
State Fire Prevention Board

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 20714

FILED: 01/30/98, 10:15

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The Utah Fire Prevention Board met and proposed that Rule R710-4, "Buildings Under the Jurisdiction of the State Fire Prevention Board," be updated and amended. This was to update five incorporated references: (1) Uniform Fire Code, (2) Uniform Fire Code Standards, (3) Uniform Building Code, (4) National Fire Protection Association (NFPA) Standard 70, and (5) NFPA Standard 72. The Board also dealt with the adoption of certain Uniform Fire Code appendices and standards, and changes to fire drill requirements in secondary schools.

SUMMARY: Rule R710-4 is proposed to be amended as follows: in Section R710-4-1.3, the 1996 edition of National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, is adopted and incorporated by reference rather than the 1993 edition; in Section R710-4-1.4, the 1996 edition of NFPA, Standard 70, National Electric Code, is adopted and incorporated by reference rather than the 1993 edition. This is in compliance with the adoption of this standard statewide by the Uniform Building Standards Act, which became effective on January 1, 1998; in Section R710-4-1.5, the 1997 edition of the Uniform Building Code, Volume 1, is adopted and incorporated by reference rather than the 1994 edition. This is in compliance with the adoption of this standard statewide by the Uniform Building Standards Act, which became effective on January 1, 1998; in Section R710-4-1.6, the 1997 edition of the Uniform Fire Code, Volume 1, is adopted and incorporated by reference rather than the 1994 edition. This is in compliance with the adoption of this standard statewide in Rule R710-9, which became effective on January 15, 1998; in Section R710-4-1.7, the 1997 edition of the Uniform Fire Code, Volume 2, is adopted and incorporated by reference rather than the 1994, edition. This is in compliance with the adoption of this standard statewide in Rule R710-9, which became effective on January 15, 1998. There is also adopted by amendment under Section R710-4-1.7, several listed NFPA standards, which were updated to the latest edition to allow the fire service and industry to be using the same adopted standards; in Section R710-4-3.6, the requirements for fire drills in secondary schools were modified from once a month, to every two months up to a total of four fire drills during the nine month school year; and there are also some explanatory and grammatical changes to make the rule easier to read and understand.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-7-204

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Assoc. (NFPA), Standard 70, 1996 edition, National Fire Protection Assoc. (NFPA), Standard 72, 1996 edition, Uniform Fire Code, Volume 1, 1997 edition, Uniform Fire Code, Volume 2, 1997 edition, and Uniform Building Code, Volume 1, 1997 edition

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Approximate cost of \$35 to purchase NFPA, Standard 72.

❖LOCAL GOVERNMENTS: Approximate cost of \$35 to purchase NFPA, Standard 72.

❖OTHER PERSONS: Approximate cost of \$35 to purchase NFPA, Standard 72.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Approximate cost of \$35 to purchase NFPA, Standard 72. The other codes listed above and proposed to be incorporated by reference were required to be purchased when the other adopted codes went into effect on January 1, 1998, and January 15, 1998, and would be previously listed as a compliance cost in that originating notice of proposed rule change.

(DAR Note: The proposed amendments to Rules R710-7 and R710-9 are under DAR Numbers 20277 and 20278, respectively, in the December 15, 1997, issue of the *Utah State Bulletin*, and these amendments are effective as of January 15, 1998.)

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

Public Safety  
Fire Marshal  
Suite 302  
5272 South College Drive  
Murray, UT 84123-2611, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

**R710. Public Safety, Fire Marshal.**

**R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.**

**R710-4-1. Adoption of Fire Codes.**

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum

rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used, or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, residential health care facility, children's home or institution, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 1994 edition, except as amended by provisions listed in R710-4-3, et seq. [hereafter referred to as LSC]. The following chapters from NFPA, Standard 101 are the only chapters adopted: ~~[Operating Features, Chapter 31,] Chapter 12 - New [and Existing] Health Care Occupancies; [Chapters 12 and 13,] Chapter 13 - Existing Health Care Occupancies; Chapter 14 - New [and Existing] Detention and Correctional Occupancies; [Chapters 14 and 15,] Chapter 15 - Existing Detention and Correctional Occupancies; Chapter 31 - Operating Features; and other sections referenced within and pertaining to these chapters only.~~

1.2 National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, with all appendices, 1994 edition [;], except as amended by provisions listed in R710-4-3, et seq.

1.3 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, [1993]1996 edition, except as amended by provisions listed in R710-4-3, et seq.

~~[1.3]1.4 National [Electric Code,] Fire Protection Association (NFPA[70]), Standard 70, National Electric Code (NEC), 1996[1993] edition, [hereafter referred to as NEC, as published by the National Fire Protection Association,] as adopted by the Uniform Building Standards Act, [referenced in] Title 58, Chapter 56, Section 4, [of the] Utah Code Annotated 1953.~~

~~[1.4]1.5 Uniform Building Code (UBC), [1994] Volume 1, 1997 edition, [hereafter referred to as UBC,] as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, [referenced in] Title 58, Chapter 56, Section 4, [of the] Utah Code Annotated 1953.~~

The following UBC appendix chapter[s are] is adopted:

~~(1) Chapter 3 - Division I, (Detention and Correctional Facilities):~~

~~(2) Chapter 3 - Division II, (Agricultural Buildings):~~

~~(3) Chapter 3 - Division IV, [(Requirements for Group R, Division 4 Occupancies)].~~

~~[1.5]1.6 Uniform Fire Code (UFC), Volume 1, 1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-4-3, et seq. [hereafter referred to as UFC, and UFC Standards, hereafter referred to as UFCS, 1994 editions, as published by the International Fire Code Institute].~~

The following UFC appendix chapters are adopted:

(a) Appendix I-C [(Stairway Identification)].

(b) Appendix III-C [(Festing Automatic Sprinkler and Standpipe Systems)] Inspection, Testing and Maintenance of Water Based Fire Protection Systems.

(c) Appendix IV-A [(Interior Floor Finish)].

(d) Appendix VI-A [(Hazardous Materials Classifications)].

(e) Appendix VI-~~[D]~~E [(Reference Tables from the Uniform Building Code)].

1.7 Uniform Fire Code Standards (UFCS), Volume 2, 1997 edition, as published by the International Fire Code Institute (IFCI).

The following UFCS standards are amended as follows:

(a) UFCS 10-1, Selection, Installation, Inspection, Maintenance and Testing of Portable Fire Extinguishers is amended to adopt NFPA, Standard 10, 1994 edition.

(b) UFCS 10-2, Installation, Maintenance and Use of Fire Protection Signaling Systems is amended to adopt NFPA, Standard 72, 1996 edition.

(c) UFCS 52-1, Compressed Natural Gas (CNG) Vehicular Fuel Systems is amended to adopt NFPA, Standard 52, 1995 edition.

(d) UFCS 79-1, Foam Fire Protection Systems is amended to adopt NFPA, Standard 11, 1994 edition.

(e) UFCS 82-1, Liquefied Petroleum Gas Storage is amended to adopt NFPA, Standard 58, 1995 edition.

~~[1.6]1.8 Uniform Mechanical Code (UMC), 1994 edition, [hereafter referred to as UMC,] as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, [referenced in] Title 58, Chapter 56, Section 4, [of the] Utah Code Annotated 1953.~~

~~[1.7]1.9 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.~~

#### **R710-4-2. Definitions.**

"Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

"AWWA" means American Water Works Association.

"Board" means Utah Fire Prevention Board.

"Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.

"Fire Chief or Chief of the Department" means the AHJ.

"Fire Marshal" means the AHJ.

"Fire Department" means the AHJ.

"ICBO" means International Conference of Building Officials.

"IFCI" means International Fire Code Institute.

"LSC" means Life Safety Code.

"NEC" means National Electric Code.

"NFPA" means National Fire Protection Association.

"SFM" means State Fire Marshal.

"UBC" means Uniform Building Code

"UCA" means Utah State Code Annotated 1953 as amended.

"UFC" means Uniform Fire Code.

"UFCS" means Uniform Fire Code Standards.

"UMC" means Uniform Mechanical Code.

#### **R710-4-3. Amendments and Additions.**

3.0 The following amendments and additions are hereby adopted for those buildings under the jurisdiction of the State Fire Marshal:

3.1 Door Closures

3.1.1 UFC, Article 11, Section ~~[111.2.2]~~111.2.2 Operation. Add the following Exception. In Group E Occupancies, Divisions

1 and 2, the door closures may be of the friction hold-open type on classrooms only.

### 3.2 Dumpsters

3.2.1 UFC, Article 11, Section 1103.2.2, ~~[in]with~~ reference to Group E Occupancies, ~~[are]is~~ amended to ~~[read as follows]~~add the following requirement:

Dumpsters and containers with an individual capacity of 1.5 cubic yards (40.5 cubic feet) or greater shall not be stored in buildings or placed within 20 feet of combustible walls, openings or combustible roof eave lines.

### 3.3 Fire Alarm Systems

#### 3.3.1 General Provisions

The following rules pertain to newly installed systems or changes made to existing systems, except where noted:

(a) Presignal feature type systems are prohibited, except in I-3 Occupancies.

(b) Fire alarm system designs submitted to the AHJ, shall include complete floor plans showing location of all devices, occupancy use of each room, schematic wiring diagrams, battery calculations, and any other items deemed necessary.

#### 3.3.2 Required Installations

(a) Fire alarm systems shall be provided as required in UFC, Article 10, Section 1007, and LSC Chapters as adopted, and in other rules promulgated by the Board.

(b) All state-owned buildings, college and university buildings, other than institutional, with an occupant load of one hundred (100) or more, all schools with an occupant load of fifty (50) or more, shall have an approved fire alarm system with the following features:

(1) Products-of-combustion (smoke) detectors installed throughout all corridors and common areas of egress at the maximum prescribed spacing of thirty feet on center, and no more than fifteen feet from the walls.

(2) In other than fully sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in NFPA, Standard 72, or by their listing.

(3) Manual alarm initiating devices shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

(4) The fire alarm system shall be connected to a proprietary panel, where provided within the complex.

#### 3.3.3 Main Panel

(a) An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

(b) The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

#### 3.3.4 System Wiring

(a) System Wiring shall be in accordance with the following:

(1) The Initiating Device circuits (IDC) shall be Style D as defined in NFPA, Standard 72.

(2) The Indicating Appliance circuits (IAC) shall be Style Z as defined in NFPA, Standard 72.

(3) Signaling line circuits shall be Style 6 or 7 as defined in NFPA, Standard 72.

(b) All junction boxes shall be adequately identified as part of the fire alarm system. Covers for the concealed boxes shall be painted red.

#### 3.3.5 System Devices

All equipment and devices shall be listed and/or labeled by a nationally recognized testing laboratory for fire alarm use.

#### 3.3.6 Fan Shut Down

(a) The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

(b) Duct detectors required by the UMC, shall be interconnected, and compatible with the fire alarm system.

#### 3.3.7 Maintenance and Tests

The owner/administrator of each building shall insure maintenance and testing as required in UFC, Article 10, Section 1001.4 and 1001.5. A written log, verifying these tests, shall be kept on file for inspection by the AHJ.

#### 3.4 Fireworks

3.4.1 UFC, Article 78, Section 7802.3 is amended to include the following Exception:

3. The use of fireworks for display and retail sales is allowed as set forth in the "Utah Fireworks Act", as adopted in Title 11, Chapter 3, Utah Code Annotated 1953.

#### 3.5 Health Care Facilities

3.5.1 LSC Chapters 12 and 13 Sections 12-1.2.4 and 13-1.2.4 (Exiting Through Adjoining Occupancies) exception is deleted.

3.5.2 LSC Chapter 13, Section 13-3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.

#### 3.6 Hydrants, Fire

3.6.1 The fire department connection on automatic fire sprinkler and standpipe systems shall be located a reasonable distance as approved by the AHJ.

#### 3.7 Fire Sprinklers

3.7.1 Class 1 and Class 2 fire protection systems, as defined in AWWA, M14, Second Edition, "Recommended Practice for Backflow Prevention and Cross-Connection Control," shall be provided with a listed alarm check valve with standard trim.

3.7.2 Antifreeze systems installed in Class 1 and Class 2 fire protection systems shall be installed as required in NFPA, Standard 13, and a backflow preventing device shall be installed as required in the Uniform Plumbing Code.

#### 3.8 Water Supply Analysis

3.8.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.

3.8.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.

3.8.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Appendix A-7-2.1.

3.9 Fire Drills

3.9.1 UFC, Article 13, Section 1303.3.3.2(1) is amended to include the additional Exception:

2. A fire drill in secondary schools shall be conducted at least every two months, to a total of four fire drills during the nine month school year. The first fire drill shall be conducted within the first two weeks of the school year.

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KEY: fire prevention, public buildings  
[October 9, 1995] March 18, 1998  
Notice of Continuation June 19, 1997

53-7-204



Public Safety, Fire Marshal  
**R710-6**  
Liquefied Petroleum Gas Rules

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 20715  
FILED: 01/30/98, 10:15  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The Liquefied Petroleum Gas Board met and proposed that Rule R710-6, "Liquefied Petroleum Gas Rules," be updated and amended. This was to update two incorporated references, Uniform Fire Code and the Uniform Fire Code Standards; and add one more incorporated reference, National Fire Protection Association (NFPA) 501C. The Board also dealt with the April 15, 1998, deadline for below grade installations of LP Gas, extending the deadline for one more year due to the proposed adoption of the International Mechanical Code. Several changes were also completed in the rule to different referenced Uniform Fire Code sections allowing them to match the newly adopted codes.

SUMMARY: Rule R710-6 is proposed to be amended as follows: Section R710-6-1.3, the 1996 edition of the National Fire Protection Association (NFPA), Standard 501C is proposed to be added as an incorporated reference to assist in the regulation of the LP Gas usage in recreational vehicles. Section R710-6-1.4, the 1997 edition of the Uniform Fire Code, Volume 1, Article 82, is adopted and incorporated by reference rather than the 1994 edition. Section R710-6-1.5, the 1997 edition of the Uniform Fire Code, Volume 2, Standards 82-1 and 82-2, is adopted and incorporated by reference rather than the 1994 edition. Subsection R710-6-8.3(e)(3) is amended to allow a one year extension of time, that requires below grade LP Gas systems to be brought in compliance with adopted NFPA standards.

The extension is to April 15, 1999. There are also some explanatory changes, grammatical changes, and updating of sectional references, that clarify the rule and make it easier to understand.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-7-305

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Association (NFPA), Standard 501C, 1996 edition; Uniform Fire Code, Volume 1, 1997 edition; and Uniform Fire Code, Volume 2, 1997 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: A cost of approximately \$25 would be required for each user to purchase NFPA, Standard 501C.
- ❖ LOCAL GOVERNMENTS: None.
- ❖ OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Those that would be tested for certification to perform work on recreational vehicles would need to purchase an NFPA 501C at approximately \$25.

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

Public Safety  
Fire Marshal  
Suite 302  
5272 South College Drive  
Murray, UT 84123, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

**R710. Public Safety, Fire Marshal.**

**R710-6. Liquefied Petroleum Gas Rules.**

**R710-6-1. Adoption, Title, Purpose and Scope.**

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute, transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

There is adopted as part of these rules the following codes which are incorporated by reference:

- 1.1 National Fire Protection Association (NFPA), Standard 58, Standard for the Storage and Handling of Liquefied Petroleum Gases, 1995 edition, [as published by the National Fire Protection

~~Association;~~] except as amended by provisions listed in R710-6-8, et seq.

1.2 National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, 1996 [E]dition, [~~as published by the National Fire Protection Association;~~] except as amended by provisions listed in R710-6-8, et seq.

1.3 National Fire Protection Association (NFPA), Standard 501C, Standard on Recreational Vehicles, 1996 Edition, except as amended by provisions listed in R710-6-8, et seq.

[~~1-3~~]1.4 Uniform Fire Code (UFC), Volume 1, Article 82, [~~1994~~]1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-6-8, et seq.

[~~1-4~~]1.5 Uniform Fire Code (UFC), Volume 2, Uniform Fire Code Standards (UFCS), No. 82-1 and No. 82-2, [~~1994~~]1997 edition, as published by the International Fire Code Institute (IFCI), except as amended by provisions listed in R710-6-8, et seq.

[~~1-5~~]1.6 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

[~~1-6~~]1.7 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

[~~1-7~~]1.8 Validity.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

[~~1-8~~]1.8 Order of Precedence:

~~In the event of any conflict between these rules and any adopted by reference material, the text of these rules shall govern. When a specific provision varies from a general provision, the specific provision shall control.]~~

1.9 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

**R710-6-2. Definitions.**

"Basement" means any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

"Board" means the Liquefied Petroleum Gas Board.

"Concern" means a person, firm, corporation, partnership, or association, licensed by the Board.

"Division" means the Division of the State Fire Marshal.

"Enforcing Authority" means the division, the municipal or county fire department, other fire prevention agency acting within its respective fire prevention jurisdiction, or the building official of any city or county.

"First Story" means the lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below grade,

as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet below grade, as defined herein, at any point.

"IFCI" means International Fire Code Institute.

"License" means a written document issued by the Division authorizing a concern to be engaged in an LPG business.

"LPG" means Liquefied Petroleum Gas.

"LPG Certificate" means a written document issued by the Division to any person for the purpose of granting permission to such person to perform any act or acts for which authorization is required.

"NFPA" means the National Fire Protection Association.

"Possessory Rights" means the right to possess LPG, but excludes broker trading or selling.

"Public Place" means a highway, street, alley or other parcel of land, essentially unobstructed, which is deeded, dedicated or otherwise appropriated to the public for public use, and where the public exists, travels, traverses or is likely to frequent.

"Qualified Instructor" means a person holding a valid LPG certificate in the area in which he is instructing.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such useable or unused under-floor space shall be considered a story.

"UCA" means Utah State Code Annotated 1953 as amended.

"UFC" means Uniform Fire Code.

"UFCS" means Uniform Fire Code Standards.

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**R710-6-4. LP Gas Certificates.**

4.1 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules shall pass an examination in accordance with the provisions of this article.

4.2 Application.

Application for a LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

4.3 Types of Examinations:

- (1) General Knowledge
- (2) Carburetion
- (3) Bobtail and Transport Driver
- (4) Serviceman
- (5) Dispenser--Class A
- (6) Dispenser--Class B (Key/Card Operator)

4.4 Examinations.

Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

4.6 Renewal Date.

Application for renewal shall be made in writing on forms provided by the Division.

4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years, from date of original certificate, to comply with the provisions of Section 4.3 of these rules.

4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that he is authorized, pursuant to Article 5, to deny any original LPG certificate. The applicant shall, upon such refusal, have the same rights as are granted by Article 5 of these rules to an applicant for an original LPG certificate which has been denied by the Division.

4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

4.10 Type.

(a) Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

(b) Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

(c) It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change. [~~Such change shall also be made on the reverse side of the LPG certificate.~~]

4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

- (a) The name and address of the applicant.
- (b) The physical description of applicant.
- (c) The signature of the LP Gas Board Chairman.
- (d) The date of issuance.
- (e) The expiration date.
- (f) Type of service the person is qualified to perform.
- (g) Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

4.15 Restrictive Use.

(a) No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

(b) A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

(c) Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

(d) Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

4.16 Contents of Examination.

(a) The examination required under the provisions of this article shall include a written test of the applicant's knowledge of the provisions of these rules, and/or an actual demonstration of his ability to perform the acts indicated on the application, at the discretion of the board.

(b) Examinations shall, in the opinion of the Board, be compatible with the type of work to be performed by the applicant, and with the equipment with which he will function.

4.17 Right to Contest.

(a) Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

(b) Every contention as to the validity of individual questions of an examination shall be made in writing within 48 hours after taking said examination. Contentions shall state the reason for the objection.

(c) The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

(d) The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

4.18 Passing Grade.

To successfully pass the written examination, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination shall be separately graded. All applicants shall take and pass that portion of the test, relating to these rules and failure of any portion will not delete the entire test.

4.19 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

4.20 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed forty five (45) days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.21 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

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**R710-6-8. Amendments and Additions.**

8.1 The following amendments and additions to the codes and standards adopted to regulate LPG in section 1.1, are hereby adopted:

8.2 All LP Gas facilities that are located in a public place shall be inspected by a certified LP Gas serviceman every five (5) years for leaks in all buried piping.

(a) All buried piping shall be pressure tested and inspected for leaks as set forth in NFPA Standard 54, Sections 4.1.1 through 4.3.4.

(b) If a leak is detected and repaired, the buried piping shall again be pressure tested for leaks.

(c) The certified LP Gas serviceman shall keep a written record of the inspection and all corrections made to the buried piping located in a public place.

(d) The inspection records shall be available to be inspected on a regular basis by the Division.

8.3 UFC Amendments:

(a) UFC, [s]Section 8201 - Scope. [σ]On line [3]4 after the wording "Appendix ~~A~~B." insert the following: "Also reference NFPA Standard 58, 1995 edition, as amended by the Board".

(b) UFC, [s]Section 8202.1 Permits and Plans. [σ]On line 2 after the word "see" replace "Section 105, Permit 1.1" with "the adopted LPG rules".

(c) UFC, [s]Section 8202.2 - Records, is deleted.

(d) UFC, [s]Section 8203.1 - General. [σ]Starting on line 2, after the wording "installed in accordance with" insert "NFPA Standard 58, 1995 edition, NFPA Standard 54, [1992]1996 edition, [as amended by the Board]and".

(e) UFC, [s]Section [8203.2.1.3]8203.3 Location of Equipment and Piping is [deleted, and] amended to [read as follows]add the following Exception:

Exception: For locations of equipment and piping below grade, refer to NFPA Standard 54, [1992]1996 edition and the following amendments:[-]

(1) New LP Gas systems may be installed in basements with not more than 6,000 square foot per floor, and not classified as Group E (educational), H (hazardous), or I (institutional) occupancies as defined in the Uniform Building Code.

(2) All new LP Gas systems installed in basements shall be installed as required in NFPA Standards 54 and 58, and the requirements listed in 8.2(e)(4). All new LP Gas systems installed in basements shall be inspected before occupancy by a certified LP Gas Serviceman, and may be inspected by the Building Official or his representative, or the Building Official may accept the serviceman's inspection.

(3) All LP Gas systems installed in basements and existing below-grade systems shall be inspected by a certified LP Gas serviceman every five (5) years for compliance with NFPA Standards 54 and 58, and the requirements listed in 8.2(e)(4). Existing below-grade systems shall have until April 15, [1998]1999, to be in compliance with NFPA Standards 54 and 58, and the requirements listed in 8.2(e)(4).

(4) All new and existing LP Gas systems, installed in basements or below-grade, shall in addition to the requirements listed in NFPA Standards 54 and 58, meet the following:

(A) An approved and listed audible LP Gas detector shall be installed in accordance with manufacture recommendations.

(B) The entire gas system shall be pressure tested and inspected for leaks by a certified LP Gas Serviceman as set forth in NFPA Standard 54, Sections 4.1.1 through 4.3.4.

(C) All tanks, piping, regulators, gauges, connectors, valves, vents, thermostats, pilots, burners and appliance controls, shall be inspected by a certified LP Gas Serviceman for proper installation and function.

(D) After inspection and successful completion of all code requirements, a weatherproof tag shall be attached to the tank and if possible placed under the inspection cover. The tag shall indicate the name of the inspecting company, license number of the company, name and certification number of inspector, and the date of inspection.

(E) All companies shall keep on file written paperwork indicating the name and address of the customer, date of inspection, tank information, inspector and certification number, and corrections made to the system. A copy of this inspection shall be left with the customer.

(5) If a system is changed, modified or repaired, before the expiration of the five (5) year tag, the entire system shall be reinspected to meet the requirements listed in 8.2(e)(3).

(6) The inspecting company may be allowed to charge a reasonable fee for the above required inspection, and those fees may be monitored by the Board.

(f) UFC, [s]Section 8204.1 General. [σ]On line [2]3 delete "and subject to the approval of the chief." and replace it with "as amended by the Board".

(g) UFC, [s]Section 8204.2 on line [3]4 after the word "areas" insert "as determined by the Board".

(h) UFC, [s]Section 8208 - Smoking and Other Sources of Ignition. [σ]On line 1 replace "chief" with "enforcing authority".

[~~(i) UFC section 101.3 on line 5 replace "chief" with "enforcement authority";~~]

8.4 UFCS 82-1 Amendments:

(a) The amendments listed in Part I, Section 82.101 are deleted.

(b) The 1989 edition of NFPA, Standard 58 listed in Part II is deleted and replaced with the 1995 edition of NFPA, Standard 58.[~~(a) UFCS section 82.101 on line 4 replace "Uniform Mechanical Code" with "the LPG Board rules";~~

[~~(b) UFCS section 82.101(5) is deleted;~~

[~~(c) UFCS section 82.101(8) on line 2 delete the wording "one of". On line 2 replace "methods" with "method". On line 4 delete all wording;~~

[~~(d) UFCS section 82.101(14) is deleted;~~

[~~(e) UFCS section 82.101(16) is deleted;~~

[~~(f) UFCS section 82.101(17) is deleted;~~

[~~(g) UFCS section 82.101(18) is deleted;~~

[~~(h) UFCS section 82.101(19) is deleted;~~

[~~(i) UFCS section 82.101(20) is deleted;~~

[~~(j) UFCS section 82.101(21) on line 2 replace "chief" with "enforcing authority";~~

[~~(k) UFCS section 82.101(27) is deleted;~~

[~~(l) UFCS section 82.101(28) is deleted;~~

[~~(m) UFCS section 82.101(29) is deleted;~~

[~~(n) UFCS section 82.101(30) is deleted;~~

[~~(o) UFCS section 82.101(31) is deleted;~~

[~~(p) UFCS section 82.101(32) is deleted;~~

- ~~(q) On line 2 replace Uniform Fire Code, Article 79, with NFPA 58.~~
  - ~~(r) UFCS section 82.101(38) is deleted.~~
  - ~~(s) UFCS section 82.101(39) is deleted.~~
  - ~~(t) UFCS section 82.101(40) is deleted.~~
  - ~~(u) UFCS section 82.101(42) is deleted.~~
  - ~~(v) UFCS section 82.101(43) is deleted.~~
  - ~~(w) UFCS section 82.101(44) is deleted.~~
  - ~~(x) UFCS section 82.101(47) on line 1 replace ", brass or copper" with "or brass"~~
  - ~~(y) UFCS section 82.101(48) is deleted.~~
  - ~~(z) UFCS section 82.101(49) is deleted.~~
  - ~~(A) UFCS section 82.101(50) is deleted.]~~
- 8.5 NFPA Standard 58 (1995 edition) Amendments:  
 NFPA Standard 58, Sections 2-4.3(c)(1) and (2) are deleted and amended to read as follows:  
 Type K copper tubing without joints below grade may be used in exterior LP Gas piping systems only.

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**KEY: liquefied petroleum gas**  
**[July 28, 1997] March 18, 1998** **53-7-305**



**Public Safety, Fire Marshal**  
**R710-8**  
**Day Care Rules**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 20716  
 FILED: 01/30/98, 10:15  
 RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The Utah Fire Prevention Board met and proposed that Rule R710-8, "Day Care Rules," be updated and amended. This was to update one incorporated reference, the Uniform Building Code, Volume 1, 1997 edition. There was also some explanatory and grammatical changes to make the rule easier to read and understand.

SUMMARY: In Section R710-8-1.2, the 1997 edition of the Uniform Building Code, Volume 1, is adopted and incorporated by reference rather than the 1994 edition. With the adoption statewide of the Uniform Building Code, Volume 1, 1997 edition, as adopted by the Uniform Building Standards Act, which became effective on January 1, 1998, the change to Section R710-8-1.2 became necessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-7-204

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Uniform Building Code, Volume 1, 1997 edition

ANTICIPATED COST OR SAVINGS TO:  
 ❖THE STATE BUDGET: None.  
 ❖LOCAL GOVERNMENTS: None.  
 ❖OTHER PERSONS: None.  
 COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

THE FULL TEXT OF THIS FILING MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 Public Safety  
 Fire Marshal  
 Suite 302  
 5272 South College Drive  
 Murray, UT 84123-2611, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
 Brent R. Halladay at the above address, by phone at (801) 284-6350, by FAX at (801) 284-6351, or by Internet E-mail at psdomain.psudi.bhallada@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Brent R. Halladay, Chief Deputy State Fire Marshal

**R710. Public Safety, Fire Marshal.**  
**R710-8. Day Care Rules.**  
**R710-8-1. Adoption of Codes.**

Pursuant to Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum standards for the prevention of fire and for the protection of life and property against fire and panic in any day care facility or children's home.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 1994 edition, except as amended by provisions listed in R710-8-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 10, New Educational Occupancies, Section 10-7 - Day Care Centers;~~[Sections of] Chapter[s 10 and] 11, [New and]~~Existing Educational Occupancies, Section 11-7 - Day Care Centers; and other sections referenced within and pertaining to these chapters only.

1.2 Uniform Building Code (UBC), ~~[1994]~~1997 edition, as published by the International Conference of Building Officials (ICBO), and as adopted by the Uniform Building Standards Act, ~~[referenced in]~~Title, 58, Chapter 56, Section 4, Utah Code Annotated 1953.

1.2.1 Group Day Care units shall also apply R156-56-20, Amendments to the UBC, Chapter 3, Section 305.1, Division 3, in carrying out the purposes of this Rule.

1.3 Copies of the above codes are on file in the Office of Administrative Rules and the Office of the State Fire Marshal.

**R710-8-2. Definitions.**

"Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority.

"Board" means Utah Fire Prevention Board.

"Client" means a child or adult receiving care from other than a parent, relative or guardian.

"Day Care" means any building or portion thereof, where clients receive care, maintenance, and supervision for less than 24 hours per day and which are not classified in the Uniform Building Code as E-1 or E-2 occupancies.

"Day Care Center" means care for thirteen or more clients.

"Family Day Care" means a service of providing care for not more than six clients listed in the following two groups:

a. "A" means not less than one and not more than three clients.

The unit will be unlicensed, unregulated, and exempt.

b. "B" means not less than four and not more than six clients.

The unit shall be licensed and regulated by regional offices of the Department of Human Services.

"Group Day Care" means a service of providing care for not less than seven and not more than twelve clients.

"ICBO" means International Conference of Building Officials.

"LSC" means Life Safety Code.

"NFPA" means National Fire Protection Association.

"SFM" means State Fire Marshal.

"UBC" means Uniform Building Code.

**R710-8-3. Amendments and Additions.**

3.1 Family Day Care units shall comply with the requirements of NFPA, [~~Pamphlet~~ Standard 101, Life Safety Code (LSC), Day Care Sections of Chapters 10 and 11, where applicable, and the R-3 requirements of the Uniform Building code.

3.2 Group Day Care units shall comply with the Uniform Building Code Statewide Amendment for Group Day Care and the R-3 requirements of the Uniform Building Code.

3.3 Day Care Centers shall comply with the E-3 requirements of the Uniform Building Code.

3.4 Places of religious worship shall not be required to meet the provisions of this Rule in order to operate a nursery while religious services are being held in the building.

3.5 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.

3.6 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure.

3.7 Fire drills shall be conducted in Family and Group Day Care units quarterly, and shall include the complete evacuation from the building of all clients and staff. Fire Drills in Day Care Centers shall be completed as required under Group E Occupancies.

3.8 The Authority Having Jurisdiction shall insure at each inspection there is sufficient staff to client ratios to allow safe and orderly evacuation in case of fire.

3.9 Infants shall not be housed in basements or above the first story unless permitted by the Uniform Building Code or the Life Safety Code.

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**KEY: fire prevention, day care**

~~[August 7, 1995]~~ [March 18, 1998]

**Notice of Continuation May 1, 1997**

53-7-204



**Public Safety, Highway Patrol  
R714-550**

**Rule for Spending Fees Generated by  
the Reinstatement of Driver Licenses**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 20698

FILED: 01/27/98, 12:43

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: To correct an incorrect statutory citation and to establish a time limit for the retention of records.

SUMMARY: This filing contains two amendments. The first amendment changes a statutory citation from Section 53-3-117 to Section 53-1-117. The second amendment establishes a five-year retention period for various agency records.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 53-1-117

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Public Safety  
Highway Patrol  
Calvin L. Rampton Building  
4501 South 2700 West  
Box 141775  
Salt Lake City, UT 84114-1775, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

J. Francis Valerga at the above address, by phone at (801) 965-4062, by FAX at (801) 965-4608, or by Internet E-mail at psdomain.psmain.jfvalerg@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: J. Francis Valerga, Special Counsel

**R714. Public Safety, Highway Patrol.**  
**R714-550. Rule for Spending Fees Generated by the Reinstatement of Driver Licenses.**  
**R714-550-1. Purpose and Authority.**

Subsection 53-3-105 (29) provides for the establishment of an administrative fee to be paid for the reinstatement of a driver license suspended or revoked for the commission of alcohol or drug-related offenses. Subsection 53-3-106 (5) provides that a portion of the fee will be appropriated by the legislature to the Utah Department of Public Safety (department) so that the department can in turn purchase equipment for law enforcement agencies of the state and its political subdivisions to assist them in enforcing alcohol or drug-related driving laws. This rule is authorized by Section 53-[3]1-117 which requires the department to make rules governing the manner in which those funds are distributed.

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**R714-550-7. Agency Accountability.**

Law enforcement agencies that receive equipment from the committee shall:

- (a) use the equipment only in the manner set forth in the agency's application;
- (b) use the equipment only to enforce alcohol and drug-related driving laws;
- (c) maintain records for five years sufficient to show how the equipment is used; and
- (d) cooperate with the committee if and when the committee determines it is necessary to audit agency records showing how the equipment is used.

**KEY: drugs, alcohol, fees**  
**199[7]8**

**53-[3]1-117**



Public Service Commission,  
Administration  
**R746-365**  
Intercarrier Service Quality

**NOTICE OF PROPOSED RULE**  
(New)  
DAR FILE NO.: 20683  
FILED: 01/15/98, 17:08  
RECEIVED BY: NL

**RULE ANALYSIS**

**PURPOSE OF OR REASON FOR THIS FILING:** Section 54-8b-2.2 requires telecommunications corporations to provide interconnection of their networks to other telecommunications corporations. This section requires the Commission to establish rules which enable the competitive provisions of telecommunication services.

**SUMMARY:** This rule establishes the service standards and reporting requirements that the telecommunications corporations must fulfill in providing services to other telecommunications corporations.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING:** Section 54-8b-2.2  
**FEDERAL MANDATE FOR THIS FILING:** 1996 Federal Telecommunications Act

**ANTICIPATED COST OR SAVINGS TO:**

- ❖THE STATE BUDGET: Unknown.
  - ❖LOCAL GOVERNMENTS: None.
  - ❖OTHER PERSONS: Unknown.
- COMPLIANCE COSTS FOR AFFECTED PERSONS:** Unknown.

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

Public Service Commission  
Administration  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS FILING TO:**

Barbara Stroud at the above address, by phone at (801) 530-6716, by FAX at (801) 530-6796, or by Internet E-mail at pupsc.bstroud@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/18/98

AUTHORIZED BY: Barbara Stroud, Paralegal

**R746-365. Public Service Commission, Administration.**

**R746-365. Intercarrier Service Quality.**

**R746-365-1. General Provisions.**

(A) Application and Authority -- This rule shall apply to telecommunications corporations that are obligated to interconnect facilities and equipment for the mutual exchange of telecommunications traffic pursuant to Section 54-8b-2.2.

(1) This rule provides service standards to ensure that telecommunications corporations, individually and jointly, will engineer, design, equip and provision an efficient public telecommunications network with attendant operational support systems and joint network planning processes that will:

(a) prevent impairment of public telecommunication services attributable to the provisioning of essential facilities and services used to provide local exchange service, including blocking of telecommunications traffic carried by or exchanged between the networks of multiple telecommunications corporations;

(b) ensure that each incumbent local exchange carrier timely provides essential interconnection facilities and services to other telecommunications corporations that is at least equal in quality to that provided by the incumbent local exchange carrier to itself or to any of its subsidiaries or affiliates, or to any other carrier with whom the incumbent local exchange carrier interconnects, or provides interconnection facilities and services.

(2) This rule defines obligations relating to interconnection and the exchange of traffic that apply only to incumbent local exchange carriers as required by the federal Telecommunications Act of 1996, 47 U.S.C. Sections 251, 256 (a), 271(c)(1)(B)(2)(B)(i) and the Code of Federal Regulations Part 51.311(b).

(3) This rule specifies minimum network performance and service quality standards applicable to telecommunications corporations interconnecting pursuant to 54-8b-2.2.

(4) This rule establishes specific network monitoring and reporting obligations for incumbent local exchange carriers.

(5) Incumbent local exchange carriers with less than 30,000 access lines shall be exempt from this rule until they receive a bona fide request for interconnection made pursuant to the notice and exemption provisions of 47 U.S.C. Section 251 (f).

(6) The adoption of this rule by the Commission neither precludes subsequent amendment pursuant to applicable statutory procedures, nor the grant of a temporary exemption by the Commission as provided in R746-100-16, Deviation from Rules.

#### **R746-365-2. Definitions.**

(A) The meaning of terms used in these rules shall be consistent with their general usage in the telecommunications industry unless specifically defined in Section 54-8b-2, Rule R746-348, or this rule. As used in this rule, unless context states otherwise, the following definitions shall apply:

(1) "Affiliate" means, with respect to any telecommunications corporation, a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this subsection, the term "own" means to own an equity interest, or the equivalent, of more than ten percent.

(2) "Blocking" means the occurrence of insufficient capacity between the end office or tandem of a telecommunications corporation and the end office or tandem of another telecommunications corporation, and includes a call not completed because of insufficient capacity usually evidenced by a fast busy signal or message that circuits are busy.

(3) "Busy Hour" means the uninterrupted period of 60 minutes during the day when the traffic is at its maximum.

(4) "Business Day" means any day other than Saturday, Sunday or other day on which commercial banks in Utah are authorized or required to close.

(5) "CFR" means the Code of Federal Regulations.

(6) "Commission" means the Public Service Commission of Utah.

(7) "Competitive Local Exchange Carrier" (CLEC) means an entity certificated to provide local exchange services that does not otherwise qualify as an incumbent local exchange carrier.

(8) "End User" means the person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency purchasing the telecommunications service for its own use, and not for resale.

(9) "FCC" means the Federal Communications Commission.

(10) "Federal Act" means the Federal Telecommunications Act of 1996, 47 U.S.C.

(11) "Firm Order Confirmation" (FOC) means notice provided by one telecommunications corporation to another in electronic or manual form of acceptance of a service order and the date that the service order will be completed.

(12) "Held Service Order" means a written or electronic order for an essential interconnection service or facility that is not filled on or before the standard installation interval or the date specified in a FOC, whichever occurs first.

(13) "Incumbent Local Exchange Carrier" (ILEC) is defined as it is in Rule R746-348, Interconnection.

(14) "Interoffice Trunk Facilities" means the facilities, including transport, switching and cross-connect facilities, necessary for the transmission and routing of telephone exchange service between two end offices, or an end office and a tandem office.

(15) "Local Exchange Carrier" means a telecommunications provider, authorized by the Commission, that provides local exchange service in a defined geographic service territory.

(16) "Network Element" or "Network Facility" is defined as it is in Section R746-348-2, Interconnection.

(17) "Order Completion Notification" (OCN) means notice provided by one telecommunications corporation to another in electronic or manual form that a service order has been completed.

(18) "OSS Interface" means a system of communications links, computer hardware and software and associated equipment providing access into an ILEC's operational support systems for human-to-computer or computer-to-computer communication. This definition is conjunctive to the definition of "operational support" contained in Section R746-348-2, Interconnection.

(19) "Service Order" means a written or electronic request for essential facilities or services made to effectuate Section 54-8b-2.2 and section 251 of the federal act.

(20) "Trouble Report" means an oral, written or electronic report received by a telecommunications corporation from an end user of public telecommunications service, or, an oral, written or electronic report received by one telecommunications corporation from another who purchases essential facilities or services from the former. In either case, a Trouble Report communicates improper functioning of facilities over which the providing telecommunications corporation exercises control. A trouble report is used by telecommunications corporations to monitor repair and maintenance actions required for disposition of out-of-service or substandard service conditions.

(21) "Wholesale Services" means essential services available to telecommunications corporations for the purpose of resale to end users.

(22) "Wire Center" means a building that contains the necessary telecommunications facilities and functions to terminate, switch, route and interconnect local exchange, interoffice, and interexchange public telecommunication services.

**R746-365-3. Network Obligations Applicable to All Telecommunications Corporations.**

(A) Compliance With Existing Rules -- Telecommunications plant shall be designed, constructed, maintained and operated in compliance with Rule R746-340, Substantive Rules Governing Telecommunications Utilities unless a telecommunications corporation receives a waiver or exemption by Commission order. The term "public," as used in Rule R746-340, shall include telecommunications corporations seeking interconnection with an other telecommunications corporation.

(B) Engineering -- All telecommunications corporations shall construct network facilities in conformance with network design standards and specifications promulgated and published by industry standards-setting bodies such as the Alliance for Telecommunications Industry Solutions, the American National Standards Institute, the Committee T1-Telecommunications of the Alliance for Telecommunications Industry Solutions, Bellcore, the Consultative Committee on International Telegraphy and Telephony, the Institute for Electrical and Electronic Engineers, the International Telecommunications Union and the Internet Engineering Task Force.

(C) FCC Compliance -- Telecommunications corporations shall comply with network performance rules promulgated by the FCC under authority of the federal act if stricter than those contained in this rule.

(D) Negotiated Standards -- Interconnecting telecommunications corporations may voluntarily agree to performance standards for essential network facilities and services that are stricter than those contained in this rule.

**R746-365-4. Service Quality Obligations.**

(A) Service Quality Obligations Applicable to All Telecommunications Corporations --

(1) Carrier Provisioning Intervals -- Each telecommunications corporation shall provide essential facilities and associated services in accordance with the following provisioning intervals and shall separately measure each provisioning interval for commonly used circuit or facility types. The provisioning interval is the elapsed time measured in hours from a telecommunications corporation's receipt of a service order to return of an OCN. The percentage of service orders completed on time will be determined by the number of orders completed within the installation interval or the committed due date specified in a FOC. The cumulative elapsed time for each circuit or facility type is divided by the total number of corresponding completed service orders for each circuit or facility type to derive measures of service order flow-through, as further enumerated in Section R746-365-5.

(a) Interoffice Trunking Facilities -- Pursuant to forecasting requirements established in Section R746-365-5, forecasted trunk, routing and switching facilities shall be provisioned to any requesting local exchange carrier within 30 days of receipt of a service order 90 percent of the time, unless otherwise agreed to by

the requesting carrier. A telecommunications corporation shall return a FOC within two days of receipt of a service order from another telecommunications corporation.

(i) Service Orders Presented Under Approved Forecasts -- A telecommunications corporation shall be obligated to complete all service orders for essential facilities and services requested by an other telecommunications corporation that comport with four month projections contained in a joint forecast developed pursuant to Subsection R746-365-6(C).

(b) Interim Number Portability -- Until permanent number portability is implemented, telecommunications corporations shall provide interim number portability. The installation interval for interim number portability shall not exceed three days following receipt of a service order 90 percent of the time.

(2) Trouble Reports --

(a) Receipt, Investigation and Recording -- Each telecommunications corporation shall provide for the receipt of trouble reports 24 hours a day, seven days a week. Each telecommunications corporation providing public telecommunications service shall investigate and respond to each trouble report. Each telecommunications corporation shall maintain a record of trouble reports made by end users and other telecommunications corporations which complies with Subsection R746-365-5(B)(4).

(b) Emergency Out-of-Service -- Provisions shall be made to clear emergency out-of-service trouble at all hours, consistent with the public interest and the personal safety of a telecommunication corporations personnel. Emergency or alternative service shall be provided local law enforcement and public safety agencies during the period of any network interruption.

(c) Notice of Unusual Repairs and Planned Interruptions -- If unusual repairs preclude prompt disposition of a reported trouble, telecommunications corporations shall notify all affected telecommunications corporations. If service must be interrupted for purposes of rearranging facilities or equipment, the work shall be accomplished in the manner least disruptive to other telecommunications corporations and which minimizes public inconvenience. Each telecommunications corporation shall notify each affected telecommunications corporation in advance of a planned interruption.

(d) Repair Intervals -- Each telecommunications corporation shall seek to clear out-of-service trouble reports received from another telecommunications corporation within two hours of receipt 90 percent of the time, unless the trouble requires unusual repair, or carriers have agreed to other repair intervals. The repair interval for clearing a trouble between telecommunications corporations is the elapsed time measured in hours and tenths of hours from the time a trouble report is received by a telecommunications corporation to the time the telecommunications corporation returns a valid trouble resolution notification. Elapsed time shall be measured by common circuit or facility types and trouble disposition and closure recorded in accordance with Subsection R746-365-5(B)(4).

(3) Network Performance Levels -- Each telecommunications corporation shall engineer, furnish and install essential facilities and services designed to meet busy hour demand, and to prevent blocking. The following minimum network performance standards apply to:

(a) Interoffice Facilities --

(i) Local and extended area service interoffice trunk facilities shall have a minimum engineering design standard of (P.01) grade of service.

(ii) Intertandem facilities shall have a minimum engineering design standard of B.0025 (P.0025) grade of service.

(b) Outside Plant -- Each telecommunications corporation shall engineer, construct and maintain cable and wire between an end user network interface device and the serving wire center in conformance with current industry standards, as described in Subsection R746-365-3(B), and common engineering practices.

(B) Service Quality and Other Network Obligations Applicable to ILECs --

(1) Operational Support Systems --

(a) OSS Interfaces -- Each ILEC shall undertake all commercially reasonable efforts to implement within 180 days of publication industry standards or guidelines issued by the Alliance for Telecommunications Industry Solutions (ATIS) that facilitate parity of access to operational support systems the incumbent local exchange carrier uses to store and retrieve information related to network engineering and administration. The Commission may by rulemaking adopt published OSS Interface standards or guidelines effecting other telecommunications corporations' access to Operational Support Systems if the rule facilitates automated allocation of network resources and capacity.

(b) FCC Compliance -- ILECs shall comply with rules or standards for OSS interfaces promulgated by the FCC under authority of the federal Act, including any time frames specified therein if shorter than that provided above.

(c) Testing of OSS Interfaces -- Each ILEC shall upon request jointly conduct with one or more telecommunications corporations testing of OSS interfaces used to obtain access to operational support systems. OSS Interface testing shall commence not more than 45 days after a request for testing is received by an ILEC. The ILEC and the telecommunications corporation(s) shall determine the duration of tests which shall be conducted among noncommercial end user accounts. No unreasonable limitation shall be imposed by an ILEC on an other telecommunications corporation's ability to test intercarrier OSS Interfaces to ensure compatibility between ILEC and the other telecommunications corporation's operational support systems.

(2) Network Provisioning Intervals -- Each ILEC shall provide essential facilities and services that comply with the following installation intervals:

(a) Network Elements -- Each ILEC shall provision essential network facilities and services in accordance with the following intervals and shall measure provisioning intervals for each of the following loop facilities and services as described in Subsection R746-365-5-(C)(3)(c).

(i) Unbundled Loops -- Provisioning intervals for an unbundled loop will vary by circuit and facility type, the number of loops requested on a service order, availability of facilities and whether or not a dispatch of ILEC personnel must occur. The following essential facilities will be provisioned for telecommunications corporations within the specified intervals.

TABLE

| Facility Type   | Quantity | Interval   |
|---|----------|------------|
| DS0 or analog equivalent, dispatch, facilities available: | 1 - 24   | 5 days     |
|   | 24- n    | negotiated |
| DS0 or voice grade equivalent, no dispatch:               | 1 - 24   | 3 days     |
|   | 24 - n   | 7-10 days  |
| DS1 -- Facilities provisioned and available:              |          | 5 days     |
| ISDN -- Facilities provisioned and available:             |          | 7 days     |
| XDSL -- Facilities provisioned and available:             |          | 7 days     |
| DS3 -- Facilities provisioned and available:              |          | 7 days     |
| OC3-Higher -- Facilities provisioned and available:       |          | 15 days    |

(b) Wholesale Services -- Installation intervals for wholesale services shall vary depending upon whether an existing end user service provided by an ILEC is migrated to an other telecommunications corporation, or, is a new service installation.

(i) An ILEC shall migrate wholesale services without changes for an existing end user served by the ILEC within 24 hours following receipt of a service order from the telecommunications corporation.

(ii) An ILEC shall migrate wholesale service with changes for an existing end user served by the ILEC within three days following receipt of a service order from the telecommunications corporation.

(iii) An ILEC shall install new wholesale service to a new end user, if facilities are available, within three days following receipt of a service order from the telecommunications corporation.

(c) Collocation -- The following provisioning intervals and optional arrangements are common to both virtual and physical collocation:

(i) Upon receipt by an ILEC of a request for collocation, the ILEC shall within 15 days notify the telecommunications corporation whether sufficient space exists. If the telecommunications corporation disputes an ILECs denial of a request for collocation, and the carriers cannot negotiate a mutually satisfactory resolution, the telecommunications corporation may petition the Commission pursuant to Subsection R746-365-8(B) for an expedited hearing and resolution of the dispute. The burden shall be on the ILEC to demonstrate to the Commission that collocation is not practical due to space limitations or is technically infeasible.

(ii) If collocation is available, the ILEC shall within 25 days following receipt of a request for collocation provide a written quotation containing all non-recurring charges for construction of the telecommunications corporation's requested collocation arrangement.

(iii) The telecommunications corporation shall within 30 days following receipt of the ILEC's quotation, by written notice to the ILEC: 1) accept the quotation; 2) withdraw the request for collocation; or, 3) provide the ILEC an independent contractor quotation for construction of the requested collocation arrangement.

(iv) If the telecommunication corporation accepts the quotation from the ILEC, collocation equipment shall be installed on the ILEC's premises in accordance with the following provisioning intervals: 1) For physical collocation arrangements, the ILEC shall within 45 days of the telecommunication

corporation's acceptance of the ILEC's quotation complete construction of the collocation space necessary and sufficient for installation of the CLEC's collocated interconnection facilities. The ILEC shall grant the telecommunications corporation access to the collocation space to install network elements therein. 2) For virtual collocation arrangements, the ILEC shall within 45 days after delivery of the telecommunication corporation's collocation equipment complete provisioning of all network facilities ordered by the telecommunications corporation.

(v) If the telecommunication corporation provides the ILEC an independent contractor quotation for construction associated with a collocation arrangement, the ILEC shall within 15 days of receipt of the quotation: 1) accept the proposal and grant to the independent contractor access to the ILEC's premises to complete construction of the collocation space and installation of the collocated interconnection facilities; 2) amend the ILEC's own quotation to perform on substantially similar terms, including, without limitation, price, the services specified in the independent contractor's quotation. If the telecommunication corporation accepts the ILEC's amended quotation, construction of the collocation space shall proceed as described in Subsection R746-365-4(B)(3)(c)(iv); or, 3) reject the proposal. If the ILEC refuses to accept an independent contractor quotation or amend its own quotation, the telecommunications corporation may petition the Commission for an expedited hearing and resolution of the dispute pursuant to Subsection R746-365-8(B).

#### **R746-365-5. Monitoring and Reporting Requirements.**

##### (A) Availability and Retention of Records --

(1) Availability of Records -- Each telecommunications corporation shall make network engineering and administrative records available for inspection by the Commission or its designee during normal operating hours.

(2) Retention of Records -- All information required by this rule shall be preserved for at least 36 months after the date of entry.

(3) Information Maintained -- Each telecommunications corporation shall maintain records of its network engineering and administrative operations in sufficient detail to permit review of network performance, provisioning intervals and general service quality provided other telecommunications corporations.

(4) Rights of Division of Public Utilities -- Upon request made by the Division of Public Utilities, a telecommunications corporation shall provide within seven business days copies of any information requested. The Division of Public Utilities may request frequent monitoring of network performance, provisioning intervals and general service quality if evidence exists that public telecommunications services are impaired.

(5) Special Study -- When requested by the Division of Public Utilities (the Division), an ILEC may file a study with the Division of Public Utilities evidencing actual provisioning intervals for network facilities and services or actual repair intervals for services provided a retail affiliate, or, aggregated provisioning and repair intervals for facilities and services provided it's ten largest customers. The Division shall investigate the source of the ILEC's operational support evidence and, at its discretion, petition the Commission pursuant to Section R746-100-16, Deviation from Rules. If the Commission grants consideration of such a petition, intervenors may audit the ILEC's operational support evidence underlying the results of its study.

##### (B) Network Monitoring and Performance Reporting Obligations Applicable to All Telecommunications Corporations --

(1) Monitoring -- Each telecommunications corporation shall monitor the use of its network so as to:

(a) issue the reports required by this section; and

(b) monitor the use of all trunk groups and other interconnection facilities and equipment on its own side of the point of interconnection between its network and the network of each interconnecting telecommunications corporation.

(2) Call Blocking -- Each telecommunications corporation shall maintain a daily record, by wire center, of call blocking. The record shall indicate the percentage of calls blocked by trunk group utilized by each interconnecting telecommunications corporation) Each telecommunications corporation shall notify an interconnecting telecommunications corporation immediately if call blocking on any trunk group within in any wire center exceeds standard industry levels specified in Subsection R746-365-4(A)(2).

(3) Held Service Orders -- Each telecommunications corporation shall maintain a record, by wire center, of each instance when it fails to supply essential facilities and services to an interconnecting telecommunications corporation in accordance with the provisioning intervals established in Section R746-365-4. The record shall provide the following data:

(a) the name and address of the telecommunications corporation;

(b) the circuit or facility type requested in the service order;

(c) the date and hour the service order was received;

(d) the reason for the delay;

(e) the number of days the order has been held;

(f) the expected order completion date for each service order;

(h) whether an initial service order was supplemented by the requesting telecommunications corporation and, if so, the date and time the supplement was approved by the providing carrier;

(i) a copy of the FOC provided the requesting telecommunications corporations.

(4) Carrier Trouble Reports -- Each telecommunications corporations shall maintain a record, by wire center, of trouble reports received from another telecommunications corporations. The record shall:

(a) identify the telecommunications corporation experiencing trouble;

(b) the affected services;

(c) the time, date and nature of the report;

(d) the cause and action taken to clear the trouble and its recorded disposition;

(e) the date and time of trouble clearance.

##### (C) Performance Monitoring and Reporting Obligations Applicable to ILECs --

(1) Service Provisioning Reports -- Each ILEC will provide interconnecting telecommunications corporations performance monitoring reports detailing the ILEC's provisioning of:

(a) services to the ILEC's retail customers in the aggregate;

(b) essential facilities and services provided to itself or any retail affiliate purchasing interconnection or access;

(c) essential facilities and services provided in the aggregate to other telecommunications corporations purchasing interconnection; and

(d) essential facilities and services provided to individual telecommunications corporations purchasing interconnection.

(2) Service Response Description -- The ILEC shall develop a detailed narrative description of the procedures it employs in responding to calls from:

- (a) its retail customers;
- (b) its affiliated customers purchasing essential facilities and services for interconnection or local exchange access;
- (c) interconnecting telecommunications corporations; and
- (d) The service response description will be made available upon request to telecommunications corporations purchasing essential facilities and services for interconnection. The ILEC shall comply with the procedures outlined in its service response description.

(3) Performance Monitoring Reports -- Performance monitoring reports shall include the following reports in addition to any additional reports the Commission may request:

(a) Pre-Ordering Data -- Pre-ordering data means network administration data that resides in an ILECs operational support systems that includes, but is not limited to: facility availability, service availability, customer service records, appointment scheduling, telephone number reservation, feature function availability, and street address validation.

(i) Average OSS Response Interval for Pre-Ordering Data -- This report measures average response time per transaction for: customer service records; due date availability, address validation, feature function availability and telephone number selection and reservation. It shall be measured as: the Average Response Interval. The Average Response Interval will equal the quotient of the following formula: a dividend expressed as the sum total of the differences between minuends expressed in Query Response date and time and subtrahends expressed in Query Submission date and time, the sum total dividend being divided by a divisor expressed as the number of Queries submitted in the reporting period.

(ii) OSS Interface Availability -- This report measures the percentage of time an OSS Interface is actually available for use compared to scheduled availability. It shall be measured as: the Percent System Availability. The Percent System Availability will equal the quotient of the following formula: the dividend expressed in the hours the OSS Interface functionality is actually available to CLECs during the report period divided by a divisor expressed in the number of hours the functionality was scheduled to be available during the reporting period, the quotient being expressed as a percentage.

(b) Ordering --

(i) Firm Order Confirmation Timeline -- This report measures the average interval from receipt of a service order to distribution of an order confirmation notice. It shall be measured as: measured as the Mean FOC Interval. The Mean FOC Interval will equal the quotient of the following formula: the dividend expressed as the sum total of the differences of minuends expressed as the date and time of Firm Order Confirmation (FOCs) and subtrahends expressed as the date and time of Order acknowledgment, the sum total dividend being divided by a divisor expressed in the number of Orders confirmed in the reporting period.

(ii) Reject Timelines -- This report measures average response time from receipt of service order to distribution of rejection notice. It shall be measured as: the Mean Reject Interval. The Mean Reject Interval will equal the quotient of the following formula: a dividend expressed as the total sum of the difference of minuends expressed as the date and time of Order Rejection and subtrahends

expressed as the date and time of Order Acknowledgment, the sum total dividend being divided by a divisor expressed in the number of Orders Rejected in the reporting period.

(iii) Percentage Rejects -- This report measures the percentage of total service orders received and rejected by the ILEC due to errors or omissions in the service order.

(iv) Timeliness of Order Completion Notification -- This report measures average response time from the actual completion date to distribution of service order completion notification. It shall be measured as: the Completion Interval. The Completion Interval shall equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the date and time of Notice of Completion issued to the telecommunications corporations and subtrahends expressed as the date and time of Work Completion by the ILEC, the sum total dividend being divided by a divisor expressed as the number of Orders completed during the reporting period.

(v) Held Order Interval -- This report measures uncompleted orders where the committed due date on a firm confirmation order has passed. It shall be measured as: the Mean Held Order Interval. The Mean Held Order Interval will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the reporting period close date and subtrahends expressed as the Committed Order Due date, the sum total dividend being divided by a divisor expressed as the number of Orders Pending and Past the Committed Due Date.

(c) Provisioning --

(i) Average Completion Interval -- This report measures the average time from an ILECs receipt of service order to the completion date provided on an OCN. It shall be measured as: the Average Completion Interval. The Average Completion Interval will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the OCN date and time and subtrahends expressed as the Service Orders Submission date and time, the sum total dividend being divided by a divisor expressed as the count of Orders completed in the reporting period.

(ii) Percentage of Orders Completed On Time -- This report measures the percentage of total orders completed on or before the completion date provided on an OCN. It shall be measured as: the Percent Orders Completed on Time. The Percent Orders Completed on Time will equal the quotient of the following formula: a dividend expressed as the count of Orders Completed within ILEC Committed Due Date and a divisor expressed as the count of Orders Completed in the reporting period, the quotient being expressed as a percentage.

(iii) Percentage Missed Installation Appointments -- This report measures the percentage of service orders where installation of wholesale service is not performed at a time in which the customer concurs which appears on a firm order confirmation. It excludes misses when the CLEC or end user causes the missed appointment. It shall be measured as: the Percentage Missed Installation Appointments. The Percentage Missed Installation Appointments will equal the quotient of the following formula: a dividend expressed as the count of Wholesale appointments missed and a divisor expressed as the count of Wholesale Orders completed in the reporting period, the quotient being expressed as a percentage.

(iv) New Service Installation Trouble Within 30 Days -- This report measures the percentage of new service installations which prove defective within 30 days following completion of a service order. It shall be measured as: the Percentage New Service Installation Trouble within 30 days. The Percentage New Service Installation Trouble within 30 days will equal the quotient of the following formula: a dividend expressed as the count of defective New Service Install in the past 30 days divided by a divisor expressed as the count of total New Service Installs in the past 30 days; the quotient being expressed as a percentage.

(d) Maintenance --

(i) Trouble Report Rate -- This report measures the frequency of direct or referred trouble report incidents across a universe of facilities where the cause is determined to be in network facilities. It is measured as a percentile of lines or circuit types in service. It shall be measured as: the Trouble Report Rate. The Trouble Report Rate will equal the quotient of the following formula: a dividend expressed as the count of Initial and Repeated Trouble Reports in the reporting period divided by a dividend expressed as the number of Service Access Lines in service at the end of the reporting period; the quotient being expressed as a percentage.

(ii) Missed Repair Appointments -- This report measures the percentage of trouble reports not cleared by the committed date and time. It excludes misses where the telecommunications corporation or end user caused the missed appointment. It shall be measured as: the Percentage Missed Repair Appointments. The Percentage Missed Repair Appointments will equal the quotient of the following formula: a dividend expressed as the count of Repair Appointments Missed divided by a divisor expressed as the count of Total Appointments; the quotient being expressed as a percentage.

(iii) Mean Time to Restore -- This report measures the restoral interval for resolution of maintenance and repair troubles. It measures the elapsed time from receipt of a trouble report to clearing and disposition. It shall be measured as: the Mean Time to Restore. The Mean Time to Restore will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the date and time of Ticket Closure and subtrahends expressed as the date and time of Ticket creation, the sum total dividend being divided by a divisor expressed as the count of Trouble Tickets Closed in the reporting period.

(iv) Percentage Repeat Trouble Reports Within 30 Days -- This report measures the percentage of trouble reports on a line or circuit that has had a previous trouble report in the preceding 30 days. It shall be measured as: the Repeat Trouble Rate. The Repeat Trouble Rate will equal the quotient of the following formula: a dividend expressed as the count of Service Access Lines generating more than one Trouble Report within a continuous 30 day period divided by a divisor expressed as the number of Trouble Reports in the report period; the quotient being expressed as a percentage.

(e) Billing --

(i) Timeliness of Daily Usage Feed -- This report measures the interval in hours between the recording of usage data and the transmission in proper format to a telecommunications corporation. It shall include usage originating at ILEC switches, resale and UNE switching, and not alternately billed messages received from other ILECs. It shall be measured as: the Mean Time to Provide

Recorded Usage Records. The Mean Time to Provide Recorded Usage Records will equal the quotient of the following formula: a dividend expressed as the sum total of the differences of minuends expressed as the data set transmission time and subtrahends expressed as the time of message recording the sum total dividend being divided by a divisor expressed as the count of all messages transmitted in the reporting period; the quotient being expressed as a percentage.

(f) Specific Performance Monitoring Reports -- The Commission, the Division of Public Utilities or a telecommunications corporation may request from the ILEC a report on a specific basis rather than on an average basis with respect to any of the information described in the foregoing performance monitoring reports.

(4) Identifiable Carrier-Specific Information -- An ILEC shall ensure that any carrier specific information contained in the performance monitoring reports is disclosed only to the individual carrier. The ILEC shall not use any information specific to a carrier for any purpose other than the reporting requirements contained herein.

**R746-365-6. Joint Planning and Forecasting.**

(A) Planning -- A telecommunications corporation will meet with an other telecommunications corporation to participate in joint forecasting and planning as necessary to accommodate the design and provisioning responsibilities of both telecommunications corporations. At a minimum, an ILEC and a CLEC will meet once every calendar quarter.

(B) Forecasting --

(1) Forecasting is the joint responsibility of the ILEC and the CLEC. A forecast of interconnecting trunk group and other facilities and equipment required by the ILEC and the CLEC is required on a quarterly basis. The quarterly forecast shall project requirements for the following time intervals:

- (a) four months;
- (b) one year; and
- (c) three years.

To the extent practical, the one-year and three-year forecasts will be supplemented with historical data from time to time as necessary to improve the accuracy of the forecasts.

(2) The forecasts shall include, for tandem-switched traffic, the quantity of the tandem-switched traffic forecasted for each end office.

(3) The use of Common Language Location Identifier (CLLI-MSG) shall be incorporated into the forecasts.

(4) The forecasts shall include a description of major network projects anticipated for the following year that could affect the other party to the forecast. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities that are reflected by a significant increase or decrease in trunking demand for the succeeding forecasting period.

(5) The forecasts, in narrative form, shall also describe anticipated network capacity limitations, including any trunk groups when usage exceeds 80 percent of the trunk group capacity, and the procedure for eliminating capacity problems before any trunk group experiences blocking in excess of the standards set forth in Subsection R746-365-5(B)(2).

(6) The forecasts shall include the requirements of the ILEC and the CLEC for each of the following trunk groups:

- (a) intraLATA toll and switched access trunks;
- (b) EAS and local trunks;
- (c) directory assistance trunks;
- (d) 911 and E911 trunks;
- (e) operator service trunks;
- (f) commercial mobile radio service and wireless traffic; and
- (g) meet point billing trunks.

(7) Unless otherwise agreed, forecasting information exchanged between interconnecting local exchange carriers, or disclosed by one interconnecting local exchange carrier to the other, shall be deemed confidential and proprietary.

(C) Procedure for Forecasting --

(1) At least 14 days before a scheduled joint planning and forecasting meeting, the ILEC and the CLEC shall exchange information necessary to prepare the forecast described in Subsection R746-365-6(B). At a minimum, the ILEC will provide the CLEC with the following information.

(a) Existing Interconnection Locations -- For existing interconnection locations between the ILEC and the CLEC, the ILEC shall provide:

- (i) blocking reports, at the individual trunk group level, detailing blocking at each end office, including overflow volumes, and blocking between the ILEC's end offices and tandem switches;
- (ii) the existence of any network switching, capacity or other constraints.
- (iii) any network reconfiguration plans for the ILEC's network.

(b) New Markets -- The CLEC may request the following information concerning a specific market area in the ILEC's service territory into which the CLEC desires to expand its own network:

- (i) The ILEC's network design and office types in the market area, including trunk quantities, by trunk group, to and from each office/tandem, for all tandems and subtending end offices.
- (ii) The capabilities of the ILEC's network in the market area.
- (iii) The office line counts in the market area divided between residential and business end users.
- (iv) The anticipated growth of the ILEC's network in the market area.
- (v) Any plans of the ILEC to reconfigure its network in the market area.

(b) The CLEC will provide the ILEC with the following information:

- (i) The number of trunk lines requested and the projected century call second loads used to formulate such request.
- (ii) The business and residential mix of the projected customer base.
- (iii) Whether internet providers will be served and the projected number of internet provider lines needed.
- (iv) The projected busy hour(s) of the trunk groups.
- (v) The expected blocking level for the tandem switch, the direct final end office, the expected century call seconds on busy hours - how many century call seconds the last idle trunk line will carry.
- (vi) Whether equal originating and terminating traffic loads can be anticipated to the requested trunking groups.
- (vii) The projected service dates for the requested trunking groups for the first quarter forecasted.
- (viii) The CLEC's rationale for direct trunk groups to any particular end office.

(ix) Any ramp up time anticipated for the use of the requested trunk lines, and an estimate of when the trunk group will reach capacity limits.

(x) Whether the CLEC requests usage and overflow data on the trunk groups which are directly connected to the ILEC's end offices.

(2) The CLEC shall prepare a joint forecast consistent with the requirements of Subsection R746-365-6(B) and shall submit the forecast to the ILEC at least seven days before the scheduled joint planning meeting.

(3) Prior to the scheduled joint planning meeting, the ILEC shall notify the CLEC whether the ILEC accepts the four month forecast, rejects the four month forecast, or proposes specific modifications to the four month forecast.

(a) If the ILEC rejects the four month forecast or proposes modifications to the forecast, the ILEC shall submit a written statement to the CLEC outlining the reasons why the forecast, as prepared by the CLEC, is unacceptable. The statement shall be supported by written documentation to support the ILEC's position.

(b) At the joint planning meeting, the ILEC and the CLEC may agree on the terms of the four month forecast, as initially presented by the CLEC, or with modifications proposed by the ILEC and agreed to by the CLEC. If no agreement is reached, the ILEC and the CLEC shall jointly outline all areas of disagreement.

(4) If the ILEC and the CLEC cannot agree on the terms of the quarterly four month forecast, either local exchange carrier may commence an expedited dispute resolution proceeding before the Commission, as provided in Subsection R746-365-8(B). In that proceeding, the burden of persuasion shall be on the ILEC to demonstrate that the four month quarterly forecast submitted by the CLEC is unreasonable.

(5) To the extent the ILEC and the CLEC agree to the terms of a forecast, such terms shall be deemed approved for purposes of this section, and only those portions of the quarterly forecast actually in dispute shall be subject to the expedited dispute resolution proceeding.

(6) If the ILEC and the CLEC agree on a four month quarterly forecast, or, to the extent a forecast is approved by the Commission pursuant to the expedited dispute resolution proceeding, the ILEC shall be obligated to satisfy all service order requests made by the CLEC that are consistent with the four month projections contained in the approved forecast. Compliance with the terms of the forecast shall be based on the network provisioning interval standards set forth in Subsection R746-365-4(B)(3).

(D) Capacity Beyond the Four Month Forecast -- If the CLEC desires to order trunk groups, equipment, or facilities beyond the four month forecast, but consistent with the one-year and three-year forecast, the CLEC may order the additional quantity if it pays a recurring retained capacity charge to the ILEC.

(E) Trunk Group Underutilization -- If a trunk group is under 60 percent of century call seconds (ccs) capacity on a monthly average basis for each month of any three month period, either the ILEC or the CLEC may request to resize the trunk group, which resizing will not be unreasonably withheld. If the resizing occurs, the trunk group shall not be left with less than 25 percent excess capacity. In all cases the network performance levels and the network provisioning intervals as set forth in Subsections R746-365-4(A)(2) and R746-365-4(B)(3) shall be maintained. If the

ILEC and the CLEC cannot agree to a resizing, either of them may file a petition with the Commission for an expedited dispute resolution proceeding as provided in Subsection R746-365-8(B).

(F) Point of Contact -- The ILEC and the CLEC will each provide a specified point of contact for planning, forecasting and trunking servicing purposes. The specified point of contact shall have all authority necessary to fulfill the responsibilities as set forth in this section.

**R746-365-7. Remedies.**

(A) Commission Assessed Penalties -- The Commission may assess penalties, as provided in Section 54-7-25, against any telecommunications corporation that fails or refuses to comply with this rule, including, without limitation, the provisioning and forecasting provisions contained in this rule.

(B) Carrier Charges and Offsets --

(1) Failure to Comply with This Rule -- If a telecommunications corporation fails to meet the network obligations, service quality obligations, reporting and monitoring requirements, or other duties imposed on it by this rule, any affected telecommunications corporations may file a petition with the Commission to enforce the provisions of this rule. The proceeding may be brought on an expedited basis as provided in Subsection R746-365-8(B).

(2) Service Interruption -- A telecommunications corporation shall be entitled to a billing credit against amounts owed to an other telecommunications corporation for service interruption as follows:

(a) If the telecommunications corporation's service or facility from another telecommunications corporation is interrupted and remains out-of-service for more than four but less than eight continuous hours after being reported by the interrupted telecommunications corporation, or found to be out-of-service by the providing telecommunications corporation, whichever occurs first, appropriate adjustments shall be automatically made by the to the interrupted telecommunications corporation's bill. The adjustment shall be a billing credit equal to one tenth of the providing telecommunications corporation's monthly rate for the affected service.

(b) If the interrupted telecommunications corporation's service or facility from the providing telecommunications corporation is interrupted and remains out-of-service for more than eight but less than 24 continuous hours after being reported by the interrupted telecommunications corporation, or found to be out-of-service by the providing telecommunications corporation, whichever occurs first, appropriate adjustments shall be automatically made by the providing telecommunications corporation to the interrupted telecommunications corporation's bill. The adjustment shall be a billing credit equal to the providing telecommunications corporation's monthly rate for the affected service.

(c) If the interrupted telecommunications corporation's service or facility from the providing telecommunications corporation is interrupted and remains out-of-service for more than 24 continuous hours after being reported by the-of-service by the providing telecommunications corporation, whichever occurs first, appropriate adjustments shall be automatically made by the providing telecommunications corporation to the interrupted telecommunications corporation's bill. The adjustment shall be a billing credit equal to three times the providing telecommunications corporation's monthly rate for the affected service.

**R746-365-8. Dispute Resolution.**

(A) Informal Dispute Resolution -- If a dispute, complaint or purported violation arises regarding the any provision set forth in this rule, the telecommunications corporations shall meet and attempt to resolve the dispute informally.

(B) Expedited Dispute Resolution --

(1) If a dispute, complaint or purported violation of this rule cannot be resolved on an informal basis, either telecommunications corporation may file a written complaint with the Commission as provided in Subsection 54-8b-2.2(1)(e) and shall serve a copy upon the other telecommunications corporations and its contact as designated in Subsection R746-365-6(F). The responding telecommunications corporation shall have seven business days, after the day of service, in which to respond to the complaint. The matter shall then be set for expedited hearing.

(2) A hearing shall be conducted within ten business days from the date of the reply to the complaint filed by the responding telecommunications corporation unless extraordinary circumstances exist that prevent the hearing from taking place. If there are extraordinary circumstances and a hearing cannot be conducted within the ten business day period, the hearing will be scheduled at the earliest day possible as set by the Commission.

(3) If a hearing cannot be scheduled in person, a hearing conducted by telephone conference will be scheduled.

**KEY: interconnection, public utilities, telecommunications**  
**1998** **54-8b-2**

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**End of the Proposed Rule 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.

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 (•••••) indicates that unaffected text 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.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 17, 1998. At its option, the agency may hold public hearings.

From the end of the waiting period through June 15, 1998, the 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 this issue of the *Utah State Bulletin*. 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, 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 UTAH CODE Section 63-46a-6 (1996); and UTAH ADMINISTRATIVE CODE Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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Is Intentionally Left Blank.**

Environmental Quality, Radiation  
Control  
**R313-12**  
General Provisions

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 20234  
FILED: 01/30/98, 14:26  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The reason for filing this change in proposed rule (CPR) is to act upon comments received during the public comment period for the amendment.

SUMMARY: Public comments on the changes proposed for the definition of "sealed source" in Section R313-12-3 were not in favor of the proposal. Therefore, the original text will remain as the regulatory requirement.

**(DAR Note:** The original proposed amendment upon which this change in proposed rule is based was published in the December 1, 1997, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Sections 19-3-104 and 19-3-108  
FEDERAL MANDATE FOR THIS FILING:

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Radiation Control  
State of Utah Office Park, Bldg. 2  
168 North 1950 West  
PO Box 144850  
Salt Lake City, UT 84114-4850, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Craig Jones at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at [cjones@deq.state.ut.us](mailto:cjones@deq.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/20/98

AUTHORIZED BY: William J. Sinclair, Executive Secretary

**R313. Environmental Quality, Radiation Control.**

**R313-12. General Provisions.**

**R313-12-3. Definitions.**

As used in these rules, these terms shall have the definitions set forth below. Additional definitions used only in a certain chapter will be found in that chapter.

"A<sub>1</sub>" means the maximum activity of special form radioactive material permitted in a Type A package.

"A<sub>2</sub>" means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package. These values are either listed in R313-19-100, Table 4, or may be derived in accordance with the procedures prescribed in R313-19-100(19).

"Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

"Accelerator produced material" means a material made radioactive by a particle accelerator.

"Act" means Utah Radiation Control Act, Title 19, Chapter 3.

"Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

"Adult" means an individual 18 or more years of age.

"Address of use" means the building that is identified on the license and where radioactive material may be received, used or stored.

"Agreement State" means a state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

"Airborne radioactive material" means a radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

"Airborne radioactivity area" means: a room, enclosure, or area in which airborne radioactive material exists in concentrations:

(a) In excess of the derived air concentrations (DACs), specified in R313-15, or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI), or 12 DAC hours.

"As low as reasonably achievable" (ALARA) means making every reasonable effort to maintain exposures to radiation as far below the dose limits as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Area of use" means a portion of an address of use that has been set aside for the purpose of receiving, using, or storing radioactive material.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Department under the Radiation Control Act or Rules.

"Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to one disintegration or transformation per second.

"Bioassay" means the determination of kinds, quantities or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

"Board" means the Radiation Control Board created under Section 19-1-106.

"Byproduct material" means:

(a) a radioactive material, with the exception of special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition.

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of the year shall begin in January, and subsequent calendar quarters shall be arranged so that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. The method observed by the licensee or registrant for determining calendar quarters shall only be changed at the beginning of a year.

"Calibration" means the determination of:

(a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) the strength of a source of radiation relative to a standard.

"CFR" means Code of Federal Regulations.

"Chelating agent" means a chemical ligand that can form coordination compounds in which the ligand occupies more than one coordination position. The agents include beta diketones, certain proteins, amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

"Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

"Committed dose equivalent" ( $H_{T,50}$ ), means the dose equivalent to organs or tissues of reference (T), that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

"Committed effective dose equivalent" ( $H_{E,50}$ ), is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues.

"Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee or registrant for any reason.

"Curie" means a unit of measurement of activity. One curie (Ci) is that quantity of radioactive material which decays at the rate of  $3.7 \times 10^{10}$  disintegrations or transformations per second (dps or tps).

"Deep dose equivalent" ( $H_d$ ), which applies to external whole body exposure, means the dose equivalent at a tissue depth of one centimeter ( $1000 \text{ mg/cm}^2$ ).

"Department" means the Utah State Department of Environmental Quality.

"Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

"Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

"Dose equivalent" ( $H_T$ ), means the product of the absorbed dose in tissue, quality factor, and other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

"Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purpose of these rules, "limits" is an equivalent term.

"Effective dose equivalent" ( $H_E$ ), means the sum of the products of the dose equivalent to each organ or tissue ( $H_T$ ), and the weighting factor ( $w_T$ ) applicable to each of the body organs or tissues that are irradiated.

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance or access point" means an opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

"Executive Secretary" means the executive secretary of the board.

"Explosive material" means a chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

"EXPOSURE" when capitalized, means the quotient of  $dQ$  by  $dm$  where " $dQ$ " is the absolute value of the total charge of the ions of one sign produced in air when all the electrons, both negatrons and positrons, liberated by photons in a volume element of air having a mass of " $dm$ " are completely stopped in air. The special unit of EXPOSURE is the roentgen (R). See R313-12-20 Units of exposure and dose for the SI equivalent. For purposes of these rules, this term is used as a noun.

"Exposure" when not capitalized as the above term, means being exposed to ionizing radiation or to radioactive material. For purposes of these rules, this term is used as a verb.

"EXPOSURE rate" means the EXPOSURE per unit of time, such as roentgen per minute and milliroentgen per hour.

"External dose" means that portion of the dose equivalent received from a source of radiation outside the body.

"Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

"Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm<sup>2</sup>).

"Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

"Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

"Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram.

"Hazardous waste" means those wastes designated as hazardous by the U.S. Environmental Protection Agency rules in 40 CFR Part 261.

"Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, and podiatry.

"High radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem), in one hour at 30 centimeters from a source of radiation or from a surface that the radiation penetrates. For purposes of these rules, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.

"Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

"Individual" means a human being.

"Individual monitoring" means the assessment of:

(a) dose equivalent, by the use of individual monitoring devices or, by the use of survey data; or

(b) committed effective dose equivalent by bioassay or by determination of the time weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

"Individual monitoring devices" means devices designated to be worn by a single individual for the assessment of dose equivalent. For purposes of these rules, individual monitoring equipment and personnel monitoring equipment are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLD's), pocket ionization chambers, and personal air sampling devices.

"Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions applicable to radiation sources.

"Interlock" means a device arranged or connected requiring the occurrence of an event or condition before a second condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"License" means a license issued by the Executive Secretary in accordance with the rules adopted by the Board.

"Licensee" means a person who is licensed by the Department in accordance with these rules and the Act.

"Licensed or registered material" means radioactive material, received, possessed, used or transferred or disposed of under a general or specific license issued by the Executive Secretary.

"Licensing state" means a state which has been provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which reviews state regulations to establish equivalency with the Suggested State Regulations and ascertains whether a State has an effective program for control of natural occurring or accelerator produced radioactive material (NARM). The Conference will designate as Licensing States those states with regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM.

"Limits". See "Dose limits".

"Lost or missing source of radiation" means licensed or registered sources of radiation whose location is unknown. This definition includes, but is not limited to, radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

"Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

"Member of the public" means an individual except when that individual is receiving an occupational dose.

"Minor" means an individual less than 18 years of age.

"Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, radiation monitoring and radiation protection monitoring are equivalent terms.

"NARM" means a naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source or special nuclear material.

"NORM" means a naturally occurring radioactive material.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

"Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with R313-32-75, from voluntary participation in medical research programs, or as a member of the public.

"Package" means the packaging together with its radioactive contents as presented for transport.

"Particle accelerator" means a machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

"Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or another state or political subdivision or agency thereof, and a legal successor, representative, agent or agency of the foregoing.

"Personnel monitoring equipment," see individual monitoring devices.

"Pharmacist" means an individual licensed by this state to practice pharmacy. See Sections 58-17-1 through 58-17-27.

"Physician" means an individual licensed by this state to practice medicine and surgery in all its branches. See Sections 58-12-26 through 58-12-43.

"Practitioner" means an individual licensed by this state in the practice of a healing art. Examples would be, physician, dentist, podiatrist, osteopath, and chiropractor.

"Protective apron" means an apron made of radiation-attenuating materials used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from sources of radiation from licensed or registered operations. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with R313-32-75, or from voluntary participation in medical research programs.

"Pyrophoric material" means any liquid that ignites spontaneously in dry or moist air at or below 130 degrees Fahrenheit (54.4 degrees Celsius) or any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

"Qualified expert" means an individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs, for example, individuals certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or those having equivalent qualifications. With reference to the calibration of radiation therapy equipment, an individual having, in addition to the above qualifications, training and experience in the clinical applications of radiation physics to radiation therapy, for example, individuals certified in Therapeutic Radiological Physics or X-Ray and Radium Physics by the American Board of Radiology, or those having equivalent qualifications.

"Quality factor" (Q) means the modifying factor, listed in Tables 1 and 2 of R313-12-20 that is used to derive dose equivalent from absorbed dose.

"Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram

"Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high speed electrons, high speed protons, and

other particles capable of producing ions. For purposes of these rules, ionizing radiation is an equivalent term. Radiation, as used in these rules, does not include non-ionizing radiation, like radiowaves or microwaves, visible, infrared, or ultraviolet light.

"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem), in one hour at 30 centimeters from the source of radiation or from a surface that the radiation penetrates.

"Radiation machine" means a device capable of producing radiation except those devices with radioactive material as the only source of radiation.

"Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection rules and has been assigned such responsibility by the licensee or registrant.

"Radiation source." See "Source of radiation."

"Radioactive material" means a solid, liquid, or gas which emits radiation spontaneously.

"Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

"Radiobioassay". See "Bioassay".

"Registrant" means any person who is registered with respect to radioactive materials or radiation machines with the Executive Secretary or is legally obligated to register with the Executive Secretary pursuant to these rules and the Act.

"Registration" means registration with the Department in accordance with the rules adopted by the Board.

"Regulations of the U.S. Department of Transportation" means 49 CFR 100 through 189.

"Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor. One rem equals 0.01 sievert (Sv).

"Research and development" means:

(a) theoretical analysis, exploration, or experimentation; or

(b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

"Restricted area" means an area, access to which is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A "Restricted area" does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

"Roentgen" (R) means the special unit of EXPOSURE. One roentgen equals  $2.58 \times 10^{-4}$  coulombs per kilogram of air. See EXPOSURE.

"Sealed source" means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling. [~~any container of radioactive material which has been constructed in such a manner as to prevent the escape of any radioactive material.~~]

"Shallow dose equivalent" (H<sub>s</sub>) which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (seven mg per cm<sup>2</sup>), averaged over an area of one square centimeter.

"SI" means an abbreviation of the International System of Units.

"Sievert" (Sv) means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor. One Sv equals 100 rem.

"Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

"Source container" means a device in which sealed sources are transported or stored.

"Source material" means:

(a) uranium or thorium, or any combination thereof, in any physical or chemical form, or

(b) ores that contain by weight one-twentieth of one percent (0.05 percent), or more of, uranium, thorium, or any combination of uranium and thorium. Source material does not include special nuclear material.

"Source material milling" means any activity that results in the production of byproduct material as defined by (b) of "byproduct material".

"Source of radiation" means any radioactive material, or a device or equipment emitting or capable of producing ionizing radiation.

"Special form radioactive material" means radioactive material which satisfies the following conditions:

(a) it is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) the piece or capsule has at least one dimension not less than five millimeters (0.197 inch); and

(c) it satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985, shall meet requirements of this definition applicable at the time of its design or construction.

"Special nuclear material" means:

(a) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) any material artificially enriched by any of the foregoing but does not include source material.

"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams or a combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind

of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$((175(\text{Grams contained U-235})/350) + (50(\text{Grams U-233}/200) + (50(\text{Grams Pu}/200)))$  is equal to one.

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations and measurements of levels of radiation or concentrations of radioactive material present.

"Test" means the process of verifying compliance with an applicable rule.

"These rules" means "Utah Radiation Control Rules".

"Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

"Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in R313-15-1107(1)(f).

"U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c), and (d) of Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, effective January 19, 1975 known as the Energy Reorganization Act of 1974, and retransferred to the Secretary of Energy pursuant to section 301(a) of Public Law 95-91, August 14, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977 known as the Department of Energy Organization Act.

"Unrefined and unprocessed ore" means ore in its natural form prior to processing, like grinding, roasting, beneficiating or refining.

"Unrestricted area" means an area, to which access is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

"Waste" means those low-level radioactive wastes that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986; that is, radioactive waste:

(a) not classified as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in Section 11e.(2) of the Atomic Energy Act (uranium or thorium tailings and waste) and

(b) classified by the U.S. Nuclear Regulatory Commission as low-level radioactive waste consistent with existing law and in accordance with (a) above.

"Waste collector licensees" means persons licensed to receive and store radioactive wastes prior to disposal or persons licensed to dispose of radioactive waste.

"Week" means seven consecutive days starting on Sunday.

"Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knees.

"Worker" means an individual engaged in work under a license or registration issued by the Executive Secretary and controlled by a licensee or registrant, but does not include the licensee or registrant.

"Working level" (WL), means any combination of short-lived radon daughters in one liter of air that will result in the ultimate emission of 1.3 x 10<sup>5</sup> MeV of potential alpha particle energy. The short-lived radon daughters are, for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon 220: polonium-216, lead-212, bismuth-212, and polonium-212.

"Working level month" (WLM), means an exposure to one working level for 170 hours. 2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.

"Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the decision to make the change is made not later than December 31 of the previous year. If a licensee or registrant changes in a year, the licensee or registrant shall assure that no day is omitted or duplicated in consecutive years.

**KEY: definitions, units, inspections, exemptions**  
**1998** **19-3-104**  
**Notice of Continuation March 26, 1997** **19-3-108**



**Environmental Quality, Radiation  
Control  
R313-15  
Standards for Protection Against  
Radiation**

**NOTICE OF CHANGE IN PROPOSED RULE**  
DAR FILE NO.: 20235  
FILED: 01/30/98, 14:26  
RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The reason for filing this change in proposed rule (CPR) is to act upon comments received during the public comment period for the amendment.

SUMMARY: The citation listed in Subsection R313-15-208(3)(b)(i) was found to be incorrect. This filing corrects the error. Public comments on the changes proposed for Subsection R313-15-1201(1) were not in favor of the proposal. Therefore, the original text will remain as the regulatory requirement. A change to the year of the Code of Federal Regulations is being made so that there is consistency throughout Rule R313-15.

**(DAR Note:** The original proposed amendment upon which this change in proposed rule is based was published in the December 1, 1997, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Section 19-1-201

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

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

Environmental Quality  
Radiation Control  
State of Utah Office Park, Bldg. 2  
168 North 1950 West  
PO Box 144850  
Salt Lake City, UT 84114-4850, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Craig Jones at the above address, by phone at (801) 536-4250, by FAX at (801) 533-4097, or by Internet E-mail at [cjones@deq.state.ut.us](mailto:cjones@deq.state.ut.us).

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS FILING BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 03/17/98.

THIS FILING MAY BECOME EFFECTIVE ON: 03/20/98

AUTHORIZED BY: William J. Sinclair, Executive Secretary

**R313. Environmental Quality, Radiation Control.**  
**R313-15. Standards for Protection Against Radiation.**  
**R313-15-208. Dose to an Embryo/Fetus.**

(1) The licensee or registrant shall ensure that the dose to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed five mSv (0.5 rem). See Section R313-15-1107 for recordkeeping requirements.

(2) The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in Subsection R313-15-208(1).

(3) The dose to an embryo/fetus shall be taken as the sum of:

(a) The dose to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman; and

(b) The dose that is most representative of the dose to the embryo/fetus from external radiation, that is, in the mother's lower torso region.

(i) If multiple measurements have not been made, assignment of the highest deep dose equivalent for the declared pregnant

woman shall be the dose to the embryo/fetus, in accordance with Subsection R313-15-20[5]1(3); or

(ii) If multiple measurements have been made, assignment of the deep dose equivalent for the declared pregnant woman from the individual monitoring device which is most representative of the dose to the embryo/fetus shall be the dose to the embryo fetus. Assignment of the highest deep dose equivalent for the declared pregnant woman to the embryo/fetus is not required unless that dose is also the most representative deep dose equivalent for the region of the embryo/fetus.

(4) If by the time the woman declares pregnancy to the licensee or registrant, the dose to the embryo/fetus has exceeded 4.5 mSv (0.45 rem) the licensee or registrant shall be deemed to be in compliance with Subsection R313-15-208(1) if the additional dose to the embryo/fetus does not exceed 0.50 mSv (0.05 rem) during the remainder of the pregnancy.

**R313-15-1201. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation.**

(1) Telephone Reports. Each licensee or registrant shall report to the Executive Secretary by telephone ~~[each stolen, lost, or missing source of radiation immediately after its absence becomes known to the licensee or registrant. This requirement does not apply to sources of radiation that are not required to be licensed or registered.]~~as follows:

(a) Immediately after its occurrence becomes known to the licensee or registrant, stolen, lost, or missing licensed or registered radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C of 10 CFR 20.1001 to 20.2402, 1997 ed., which is incorporated by reference, under such circumstances that it appears to the licensee or registrant that an exposure could result to individuals in unrestricted areas;

(b) Within 30 days after its occurrence becomes known to the licensee or registrant, lost, stolen, or missing licensed or registered radioactive material in an aggregate quantity greater than ten times the quantity specified in Appendix C of 10 CFR 20.1001 to 20.2402, 1997 ed., which is incorporated by reference, that is still missing.

(c) Immediately after its occurrence becomes known to the registrant, a stolen, lost, or missing radiation machine.

(2) Written Reports. Each licensee or registrant required to make a report pursuant to Subsection R313-15-1201(1) shall, within 30 days after making the telephone report, make a written report to the Executive Secretary setting forth the following information:

(a) A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model and serial number, type and maximum energy of radiation emitted;

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the licensed or registered source of radiation involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the source of radiation; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.

(3) Subsequent to filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of such information.

(4) The licensee or registrant shall prepare any report filed with the Executive Secretary pursuant to Section R313-15-1201 so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

**KEY: radioactive material, contamination, waste disposal, safety**  
**1998**

**19-3-104**

**19-3-108**



**End of Change in Proposed Rule Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (UTAH CODE Subsection 63-46a-7(1) (1996)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (••••) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule.

Emergency or 120-DAY RULES are governed by UTAH CODE Section 63-46a-7 (1996); and UTAH ADMINISTRATIVE CODE Section R15-4-8.

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### Health, Health Systems Improvement, Child Care Licensing

## R430-10

### Notice of Intent to License, Hourly Care Provider

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 20684  
FILED: 01/20/98, 10:52  
RECEIVED BY: NL

#### RULE ANALYSIS

PURPOSE OF OR REASON FOR THIS FILING: The purpose of this second emergency rule is to clarify that some hourly care providers identified in the emergency rule filed January 9, 1998, are exempt from licensing as an hourly care provider. This rule requires an hourly care provider who previously had been exempted from state licensing prior to January 1, 1998, to file a Notice of Intent to License.

SUMMARY: Requires the hourly care provider to file a Notice of Intent to License the facility prior to March 1, 1998 and to submit a functional description of the existing program including: age of children accepted for care; activity schedule; staffing qualifications; staffing schedule; and hours of operation.

**(DAR Note:** This emergency rule is preceded by an emergency rule that was effective from 01/09/98 to 01/19/98.

It is under DAR No. 20645 in the February 1, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 39  
FEDERAL MANDATE FOR THIS FILING:

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Fees are established by the Legislature and are deposited in the General Fund.

❖LOCAL GOVERNMENTS: None.

❖OTHER PERSONS: Providers of previously exempted programs will be assessed a license fee to be deposited in the General fund of \$25 plus \$1.50 per child.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule requires the provider to submit a business license, fire clearance and functional statement. The cost to the providers is the licensing fee at \$25 plus \$1.50 per child. This second emergency rule clarifies that some hourly care providers who are exempted under statute are not required to be licensed.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This rule implements H.B. 124 which passed in the 1997 General Legislative Session amending Title 26, Chapter 39. The law concerning hourly child care became effective January 1, 1998.

(DAR Note: 2nd Sub. H.B. 124 is found at 1997 Utah Laws 127 and is effective as of January 1, 1998.)

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

Health  
Health Systems Improvement,  
Child Care Licensing  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at [dwynkoop@email.state.ut.us](mailto:dwynkoop@email.state.ut.us).

THIS FILING IS EFFECTIVE ON: 01/20/98

AUTHORIZED BY: Rod Betit, Executive Director

**R430. Health, Health Systems Improvement, Child Care Licensing.**

**R430-10. Notice of Intent to License, Hourly Care Provider.**

**R430-10-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 39.

**R430-10-2. Purpose.**

The purpose of this rule is to obtain a Notice of Intent to License for child care providers who were exempted from state licensing prior to January 1, 1998.

**R430-10-3. Definitions.**

"Hourly care provider" means a person, not otherwise exempted under Utah Code Section 26-39-106, and who is not licensed under R430-100 and who provides continuous care and supervision for four or more children under 14 years of age in lieu of care ordinarily provided by parents in their own home for compensation that directly or indirectly affects or is related to a business licensed in this state.

**R430-10-4. License Required.**

(1) Except as exempted by Utah Code Section 26-39-106, no person may establish, conduct, or maintain a child care facility in this state without first obtaining a license from the Department.

(2) All hourly care providers must file a Notice of Intent to License with the Utah Department of Health on a form approved by the Department by March 1, 1998.

**R430-10-5. Notice of Intent to License.**

As part of the Notice of Intent to License the hourly care provider shall:

- (1) Submit a functional description of the program including:
  - (i) age of children who are accepted for care.
  - (ii) activity schedule.
  - (iii) staffing qualifications

(iv) staffing schedule, and

(v) hours of operation.

(2) Submit a copy of the following:

(i) business license; and

(ii) fire clearance from the fire marshal having jurisdiction.

**R430-10-6. License Issuance or Denial.**

(1) The Department shall notify the hourly care provider within 30-days of receipt of the Notice of Intent to License what type of license the hourly care provider is required to obtain.

(2) Upon receiving the notice, the hourly care provider shall submit the following:

(a) A Request for Agency Action/License Application on a form furnished by the Department;

(b) Initial Criminal Background Screening on all covered individuals identified in R430-6-3(1);

(c) The required fees; and

(d) Policies and procedures.

(4) The Department shall render a decision on an initial license application within 60 days of receipt of a complete application.

(5) The hourly care provider must reapply and pay the required fee if the application is not completed within 12 months.

(6) The Department shall issue a written notice of agency decision denying the license if the facility is not in compliance with the applicable rules, laws or regulations.

**R430-10-7. License Provisions.**

(1) The license is not assignable or transferable.

(2) Each license is the property of the Department. The licensee shall return the license within five days of closure.

(3) The licensee shall post the license on the facility premises in a place readily visible and accessible to the public.

**KEY: child care facilities**

**January 20, 1998**

**26-39**

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**Workforce Services, Employment  
Development**

**R986-305**

**Resources**

**NOTICE OF 120-DAY (EMERGENCY) RULE**

DAR FILE NO.: 20726

FILED: 02/02/98, 13:49

RECEIVED BY: NL

**RULE ANALYSIS**

PURPOSE OF OR REASON FOR THIS FILING: The Balanced Budget Act of 1997, Pub. L. No. 105-133, added a provision which excludes payments made pursuant to class settlement in the case of Susan Walker vs. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.), from being counted as a resource for Medicaid eligibility.

SUMMARY: This rule change exempts from resources, payments pursuant to a class settlement made, and retained beyond the month of receipt, to individuals with hemophilia who became infected with HIV from the blood products they received from various drug companies.

(DAR Note: An initial 120-day (emergency) rule that was effective as of 10/15/97 was published in the November 1, 1997, issue of the *Utah State Bulletin*. This second 120-day (emergency) rule is effective as of the day that the first one lapsed, which was on February 12, 1998. A corresponding proposed amendment is under DAR No. 20675 in the February 1, 1998, issue of the *Utah State Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS FILING: Title 26, Chapter 18  
FEDERAL MANDATE FOR THIS FILING: Pub. L. No. 105-133, Section 4735

THIS FILING INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Pub. L. No. 105-133, signed on August 5, 1997

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None.
- ❖LOCAL GOVERNMENTS: None.
- ❖OTHER PERSONS: None.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None.

EMERGENCY FILING JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

Public Law requires states to immediately exempt payments from countable resources made, and retained beyond the month of receipt, to Medicaid recipients under the class settlement referred to in the case of Susan Walker vs. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.)

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

Workforce Services  
Employment Development  
Fifth Floor  
300 South 140 East  
Box 143001  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:

Shawn Potter at the above address, by phone at (801) 531-3783, by FAX at (801) 531-3785, or by Internet E-mail at [spotter@email.state.ut.us](mailto:spotter@email.state.ut.us).

THIS FILING IS EFFECTIVE ON: 02/12/98

AUTHORIZED BY: Robert C. Gross, Executive Director

**R986. Workforce Services, Employment Development.**

**R986-305. Resources.**

**R986-305-501. A, B and D Medicaid and A, B and D Institutional Medicaid Resource Provisions.**

1. The department adopts 42 CFR 435.735, 435.840 through 435.845, 1994 ed., and 20 CFR 416.1201 through 416.1202 and 416.1204 through 416.1266, 1994 ed., which are incorporated by reference. The department adopts Subsections 1613(a)(4) and 1902(k) of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The department requires compliance with Public Law 98-64(2). The department adopts Pub. L. 105-33(4735) which is incorporated by reference.

2. The following definitions apply:

a. "Burial plot" means a burial space and any item related to repositories used for the remains of any deceased member of the household. This includes caskets, concrete vaults, urns, crypts, grave markers and the cost of opening and closing a grave site.

b. "Household goods" means household furniture, furnishings, and equipment which are commonly found in or about a house and are used in connection with the operation, maintenance, and occupancy of the home.

c. "Personal effects" means clothing, jewelry, items of personal care, one wedding ring, one engagement ring and any equipment on which a person's physical condition depends.

3. Current department practices:

a. A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the client's own benefit.

b. The resource limit is \$2000 for a one person household, \$3000 for a two member household and \$25 for each additional household member.

c. Medicaid eligibility is based on all available resources owned by the client. Eligibility cannot be granted based upon the client's intent to or action of disposing of non-liquid resources.

d. Any resource or the interest from a resource, which is held within the rules of the Uniform Gift to Minors Act is not countable. Any money from the resource which is given to the child as unearned income is countable.

e. The resources of a ward which are controlled by a legal guardian are counted as the ward's resources.

f. Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. If more than 90 days is needed to complete the actual purchase, the director may grant one extension. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.

g. If a resource is potentially available, but a legal impediment to making it available exists, it is not a countable resource until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions exist:

i. Reasonable action would not be successful in making the resource available.

ii. The probable cost of making the resource available exceeds its value.

h. Water rights attached to the home and the lot on which the home sits are exempt providing it is the client's principal place of residence.

i. For an institutionalized individual, a home or life estate is not considered an exempt resource. Therefore, a home which is transferred to a trust becomes a countable resource or constitutes a transfer of a resource. A home or life estate so transferred could continue to be excluded under the provisions of Section 1924 of the Compilation of the Social Security Laws, 1993 ed., U.S. Government Printing Office, Washington D.C. as amended by OBRA '93.

j. For A, B and D Medicaid the department shall not count up to \$6,000 of equity value of non-business property used to produce goods or services essential to home use daily activities.

k. For A, B and D Institutional Medicaid where the resources are determined to exceed the limits for Medicaid, eligibility shall not be given conditioned upon disposition of resources as described in 20 CFR 416.1240, 1991 ed.

l. A previously unreported resource may be retroactively designated for burial and thereby exempted effective the first day of the month in which it was designated for burial or intended for burial. However, it cannot be exempted retroactively prior to November 1982 or earlier than 2 years prior to the date of application. Such resources shall be treated as funds set aside for burial.

m. One vehicle is exempt if it is used at least four times per calendar year to obtain necessary medical treatment.

n. The department shall allow SSI recipients, who have a plan for achieving self support approved by the Social Security Administration, to set aside income that allows them to purchase work-related equipment or meet self support goals. This income is excluded.

o. An irrevocable burial trust is not counted as a resource. However, if the owner is institutionalized or on home and community based waiver Medicaid, the value of the trust, which exceeds \$7000, is considered a transferred resource.

p. Life estates.

i. For non-institutional Medicaid life estates shall be counted as resources only when a market exists for the sale of the life estate as established by knowledgeable sources.

ii. For Institutional Medicaid, life estates are countable resources even if no market exists for the sale of the life estate.

iii. The client may dispute the value of the life estate by verifying the property value to be less than the established value or by submitting proof based on the age and life expectancy of the life estate owner that the value of the life estate is lower. The value of a life estate shall be based upon the age of the client and the current market value of the property.

iv. Life estate table:

A. The following table lists the life estate figure corresponding to the client's age. This figure is used to establish the value of a life estate:

| TABLE |                    |
|-------|--------------------|
| Age   | Life Estate Figure |
| 0     | .97188             |
| 1     | .98988             |
| 2     | .99017             |
| 3     | .99008             |
| 4     | .98981             |
| 5     | .98938             |
| 6     | .98884             |
| 7     | .98822             |
| 8     | .98748             |
| 9     | .98663             |
| 10    | .98565             |
| 11    | .98453             |
| 12    | .98329             |
| 13    | .98198             |
| 14    | .98066             |
| 15    | .97937             |
| 16    | .97815             |
| 17    | .97700             |
| 18    | .97590             |
| 19    | .97480             |
| 20    | .97365             |
| 21    | .97245             |
| 22    | .97120             |
| 23    | .96986             |
| 24    | .96841             |
| 25    | .96678             |
| 26    | .96495             |
| 27    | .96290             |
| 28    | .96062             |
| 29    | .95813             |
| 30    | .95543             |
| 31    | .95254             |
| 32    | .94942             |
| 33    | .94608             |
| 34    | .94250             |
| 35    | .93868             |
| 36    | .93460             |
| 37    | .93026             |
| 38    | .92567             |
| 39    | .92083             |
| 40    | .91571             |
| 41    | .91030             |
| 42    | .90457             |
| 43    | .89855             |
| 44    | .89221             |
| 45    | .88558             |
| 46    | .87863             |
| 47    | .87137             |
| 48    | .86374             |
| 49    | .85578             |
| 50    | .84743             |
| 51    | .83674             |
| 52    | .82969             |
| 53    | .82028             |
| 54    | .81054             |
| 55    | .80046             |
| 56    | .79006             |
| 57    | .77931             |
| 58    | .76822             |
| 59    | .75675             |
| 60    | .74491             |
| 61    | .73267             |
| 62    | .72002             |
| 63    | .70696             |
| 64    | .69352             |
| 65    | .67970             |
| 66    | .66551             |
| 67    | .65098             |

68 .63610  
 69 .62086  
 70 .60522  
 71 .58914  
 72 .57261  
 73 .55571  
 74 .53862  
 75 .52149  
 76 .50441  
 77 .48742  
 78 .47049  
 79 .45357  
 80 .43659  
 81 .41967  
 82 .40295  
 83 .38642  
 84 .36998  
 85 .35359  
 86 .33764  
 87 .32262  
 88 .30859  
 89 .29526  
 90 .28221  
 91 .26955  
 92 .25771  
 93 .24692  
 94 .23728  
 95 .22887  
 96 .22181  
 97 .21550  
 98 .21000  
 99 .20486  
 100 .19975  
 101 .19532  
 102 .19054  
 103 .18437  
 104 .17856  
 105 .16962  
 106 .15488  
 107 .13409  
 108 .10068  
 109 .04545

- a. A resource is available when the client owns it or has the legal right to sell or dispose of the resource for the clients own benefit.
- b. The resource limit is \$2000 for a one person household, \$3000 for a two member household and \$25 for each additional household member.
- c. The methodology for treatment of resources is the same for all medically needy and categorically needy individuals.
- d. Medicaid eligibility is based on all available resources owned by the client. Eligibility cannot be granted based upon the client's intent to or action of disposing of non-liquid resources.
- e. The resources of a sanctioned household member are counted.
- f. The resources of a ward which are controlled by a legal guardian are counted as the ward's resources.
- g. If a resource is potentially available, but a legal impediment to making it available exists, it is not countable until it can be made available. The applicant or recipient must take appropriate steps to make the resource available unless one of the following conditions exist:
  - i. Reasonable action would not be successful in making the resource available.
  - ii. The probable cost of making the resource available exceeds its value.
- h. The maximum exemption for the equity of one car is \$1,500.
- i. Maintenance items essential for day-to-day living are not countable resources.
- j. Life estates are not countable resources if the life estate is the principal residence of the applicant or recipient. If the life estate is not the principle residence see Subsection R986-305-501(p).
- k. The resources of an ineligible child are not counted.
- l. The value of the lot on which the home stands is not counted if the lot does not exceed the average size of residential lots for the community in which it is located. The value of the property in excess of an average size lot is a countable resource.
- m. Water rights attached to a home and lot are not counted.
- n. Any resource, or interest from a resource, which is held within the rules of the Uniform Gift to Minors Act is not countable. Any money from a resource which is given to the child as unearned income is countable.
- o. Lump sum payments received on a sales contract for the sale of an exempt home are not counted if the entire proceeds are committed to replacement of the property sold within 30 days and the purchase is completed within 90 days. If more than 90 days is needed to complete the actual purchase, the director may grant one extension. Proceeds is defined as all payments made on the principal of the contract. Proceeds does not include interest earned on the principal.
- p. Retroactive benefits received from the Social Security Administration are not counted for the first 6 months after receipt.
- q. A \$1,500 burial and funeral fund exemption is allowed for each eligible household member. Burial and funeral agreements include burial trusts, funeral plans, and funds set aside expressly for the purposes of burial.
- r. The resources of an alien's sponsor are not considered available to the alien.

**R986-305-502. Family Medicaid and Family Institutional Medicaid Resource Provisions.**

1. The department adopts 45 CFR 206.10(a)(vii), 233.20(a)(3), 233.20(a)(4), and 233.51(b)(2), 1991 ed., which are incorporated by reference. The department adopts Subsection 1902(k) of the Compilation of the Social Security Laws, 1991 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference. The department adopts Pub. L. 105-33(4735) which is incorporated by reference.
2. The following definitions apply:
  - a. "Burial plot" means a burial space and any item related to repositories used for the remains of any deceased member of the household. This includes caskets, concrete vaults, urns, crypts, grave markers and the cost of opening and closing a grave site.
  - b. "Household goods" means household furniture, furnishings, and equipment which are commonly found in or about a house and are used in connection with the operation, maintenance, and occupancy of the home.
  - c. "Personal effects" means clothing, jewelry, items of personal care, one wedding ring, one engagement ring and any equipment on which a person's physical condition depends.
3. Current department practices:

s. Business resources required for employment or self employment are not counted.

**KEY: trusts, resources\***

**February 12, 1998**

**26-18**



**End of the 120-Day Rule Section**

# FIVE-YEAR REVIEW NOTICES OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed 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 CONTINUATION; or amend the rule by filing a PROPOSED RULE and by filing a NOTICE OF CONTINUATION. By filing a NOTICE OF CONTINUATION, the agency indicates that the rule is still necessary.

NOTICES OF CONTINUATION 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 OF CONTINUATION are effective when filed.

Five-Year Review NOTICES OF CONTINUATION are governed by UTAH CODE Section 63-46a-9 (1996).

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## Administrative Services, Facilities Construction and Management

### **R23-4**

#### Suspension/Debarment From Consideration for Award of State Contracts

##### **FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20702  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

##### **NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-56-48 of the State Procurement Code provides for the suspension and debarment of vendors. Subsection 63-56-14(2) authorizes the State Building Board to adopt rules to implement the Procurement Code for procurements made by the Division of Facilities Construction and Management (DFCM). This rule provides guidelines for the use of suspension and debarment by DFCM.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to guide the Division of Facilities Construction and Management's (DFCM) actions regarding the suspension or debarment of vendors.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at [fcmain.aconti@email.state.ut.us](mailto:fcmain.aconti@email.state.ut.us).

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

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## Administrative Services, Facilities Construction and Management

### **R23-5**

#### Contingency Funds

##### **FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20703  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

##### **NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-5-209 governs the contingency funds held by the Division of

Facilities Construction and Management (DFCM). Subsection 63A-5-103(3)(a)(iv) requires the State Building Board to report annually on these funds to the Legislature. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and the duties of DFCM. This rule provides guidelines for the budgeting, receipt and use of contingency funds by DFCM.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to guide the Division of Facilities Construction and Management's (DFCM) actions regarding the budgeting, receipt and use of contingency funds by DFCM.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Administrative Services Facilities Construction and Management 4110 State Office Building Salt Lake City, UT 84114, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

Administrative Services, Facilities Construction and Management R23-6 Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20704 FILED: 01/28/98, 13:38 RECEIVED BY: NL

NOTICE 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 63A-5-206(4) charges the Division of Facilities Construction and Management (DFCM) to ensure that state owned facilities are life cycle effective and requires DFCM to make

rules through the Building Board to implement this Subsection. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and the duties of DFCM. This rule provides guidelines for when life cycle analysis is required and how it is to be performed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to guide the Division of Facilities Construction and Management's actions regarding when life cycle analysis is required and how it is to be performed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT: Administrative Services Facilities Construction and Management 4110 State Office Building Salt Lake City, UT 84114, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO: April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

Administrative Services, Facilities Construction and Management R23-7 Utah State Building Board Policy Statement Master Planning

FIVE-YEAR REVIEW NOTICE OF CONTINUATION

DAR FILE No.: 20705 FILED: 01/28/98, 13:38 RECEIVED BY: NL

NOTICE 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 63A-5-103(1)(a) charges the Building Board to prepare master plans for all existing and contemplated state facilities. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties. This rule provides guidelines for the preparation and review of master plans.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to guide the Division of Facilities Construction and Management and agency actions regarding the preparation of master plans and the Board's review of those master plans.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98



**Administrative Services, Facilities  
Construction and Management  
R23-8  
Planning Fund Use**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20706  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-5-211 governs the use of the Planning Fund held by the Division of Facilities Construction and Management (DFCM). Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and those of DFCM. This rule provides guidelines for the use of the Planning Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH

COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to control the use of the Division of Facilities Construction and Management Planning Fund.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98



**Administrative Services, Facilities  
Construction and Management  
R23-9  
Building Board State/Local Cooperation  
Policy**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE No.: 20707  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

**NOTICE 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 63A-5-206(5) charges the Division of Facilities Construction and Management (DFCM) with the responsibility of managing the design and construction of state facilities and requires the Director of DFCM and of the user agency to approve the location of the facility. Past policy direction from both Legislature and the Governor have called for cooperation, when possible, with local planning and zoning. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and those of DFCM. This rule provides guidelines for cooperation with local planning and zoning in choosing the sites of state facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is

necessary to control the use of the Division of Facilities Construction and Management Planning Fund.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

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**Administrative Services, Facilities  
Construction and Management**  
**R23-10**  
**Naming of State Buildings**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20708  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

**NOTICE 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 63A-5-204(1)(d) gives the Division of Facilities Construction and Management (DFCM) the responsibility of owning most state facilities other than public and higher education facilities. The naming of buildings is often associated with the role of ownership. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and those of DFCM. This rule provides guideline for the naming of state buildings.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to provide guidelines for the naming of state buildings.

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

Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

◆ ————— ◆  
**Administrative Services, Facilities  
Construction and Management**  
**R23-11**  
**Facilities Allocation and Sale  
Procedures**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20709  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

**NOTICE 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: Subsections 63A-5-103(1)(h) and 63A-5-204(1)(b) and (3) give the Building Board and the Division of Facilities Construction and Management (DFCM) the responsibility of allocation space to many state agencies. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and those of DFCM. This rule provides guidelines for the allocation of state facilities and the determination that a facility is underutilized or surplus.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to provide guidelines for the allocation of state facilities and the determination that a facility is underutilized or surplus.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98

**Administrative Services, Facilities  
Construction and Management  
R23-21**

**Division of Facilities Construction and  
Management Lease Procedures**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20710  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63A-5-3 governs the leasing activities of the Division of Facilities Construction and Management (DFCM). Subsection 63-56-14(2) authorizes the State Building Board to adopt rules to implement the Procurement Code for procurements made by DFCM. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge its duties and those of DFCM. This rule establishes requirements for the procurement of leased space by DFCM.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to guide actions regarding the procurement of leased space by the Division of Facilities Construction and Management.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

**Administrative Services, Facilities  
Construction and Management  
R23-24  
Capital Projects Utilizing Non-  
appropriated Funds**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20711  
FILED: 01/28/98, 13:38  
RECEIVED BY: NL

**NOTICE 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: Subsections 63A-5-204(3) and (5) give the Division of Facilities Construction and Management (DFCM) the responsibility of managing the design and construction of state facilities regardless of funding source. Subsection 63A-5-103(1)(e) directs the Building Board to make rules necessary to discharge duties and those of DFCM. This rule provides guidelines for the funding of projects from non-appropriated funds.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to provide guidelines for the funding of projects from non-appropriated sources to ensure that the state is not required to cover expenditures that were committed from these funds.

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

Administrative Services  
Facilities Construction and Management  
4110 State Office Building  
Salt Lake City, UT 84114, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
April L. Conti at the above address, by phone at (801) 538-3261, by FAX at (801) 538-3267, or Internet E-mail at fcmain.aconti@email.state.ut.us.

AUTHORIZED BY: Ken Nye, Program Director

EFFECTIVE: 01/28/98



**Commerce, Occupational and  
Professional Licensing  
R156-22  
Professional Engineers and  
Professional Land Surveyors Licensing  
Act Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20696  
FILED: 01/27/98, 09:31  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 22 provides for the licensing of professional engineers and professional land surveyors. Subsection 58-1-106(1) provides the Division may adopt and enforce rules to administer Title 58. Subsection 58-22-201(3) provides that the Professional Engineers and Professional Land Surveyors Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend to the Division Director appropriate rules. These rules were enacted to clarify the provisions of Title 58, Chapter 22 with respect to professional engineers and professional land surveyors.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since these rules were originally enacted or last reviewed, the rules have been entirely revised so that they conform with the Division's model rule format and due to legislative amendments made to Title 58, Chapters 1 and 22. Also, in September 1996, the rule was repealed and reenacted due to legislative amendments made to Title 58, Chapter 22 in 1996. One written comment was received from Dean Webb in June 1996 with respect to the proposed rule. As a result of the written comment received with suggested changes to the proposed rule and further Division and Board review, a change in proposed rule (CPR) filing was made in July 1996. That CPR filing became effective on September 17, 1996.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 22 with respect to professional engineers and professional land surveyors.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or Internet E-mail at brdopl.dfairhur@email.state.ut.us.

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/27/98



**Commerce, Occupational and  
Professional Licensing  
R156-40  
Recreational Therapy Practice Act  
Rules**

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20697  
FILED: 01/27/98, 09:31  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 40 provides for the licensing of recreational therapists. Subsection 58-1-106(1) provides the Division may adopt and enforce rules to administer Title 58. Section 58-40-4 provides that the Recreational Therapy Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend to the Division Director appropriate rules. These rules were enacted to clarify the provisions of Title 58, Chapter 40 with respect to recreational therapists.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since these rules were originally enacted, the rules have been entirely revised so that they conform with the Division's model rule format and due to legislative amendments made to Title 58, Chapters 1 and 40. No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 40 with respect to recreational therapists.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
David Fairhurst at the above address, by phone at (801) 530-6621, by FAX at (801) 530-6511, or Internet E-mail at brdopl.dfairhur@email.state.ut.us.

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/27/98



Commerce, Occupational and  
Professional Licensing  
**R156-59**

Employee Leasing Company Act Rules

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20701  
FILED: 01/27/98, 17:46  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 59 provides for the licensing of employee leasing companies. Subsection 58-1-106(1) provides the Division may adopt and enforce rules to administer Title 58. Subsection 58-59-201(3)(a) provides that the Employee Leasing Company Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1) provides that one of the duties of each board is to recommend to the Division Director appropriate rules. These

rules were enacted to clarify the provisions of Title 58, Chapter 59 with respect to employee leasing companies.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: One written comment was received from Mike Haynes in June 1993 with respect to the proposed rule. As a result of the written comment received with suggested changes to the proposed rule, a public hearing which was held and further Division and Board review, a change in proposed rule (CPR) filing was made in July 1993. That CPR filing became effective on September 1, 1993.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 59 with respect to employee leasing companies.

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

Commerce  
Occupational and Professional Licensing  
Fourth Floor, Heber M. Wells Building  
160 East 300 South  
PO Box 146741  
Salt Lake City, UT 84114-6741, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Dan S. Jones at the above address, by phone at (801) 530-6720, by FAX at (801) 530-6511, or Internet E-mail at brdopl.dsJones@email.state.ut.us.

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 01/27/98



Health, Health Systems Improvement,  
Health Facility Licensure

**R432-151**

Mental Disease Facility

**FIVE-YEAR REVIEW NOTICE OF CONTINUATION**

DAR FILE NO.: 20685  
FILED: 01/20/98, 10:52  
RECEIVED BY: NL

**NOTICE AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 26, Chapter 21 of the Health Facility Licensure and Inspection Act authorizes the Utah Department of Health to promulgate rules for the operation of mental disease facilities. Without

the authority provided, mental disease facilities would not be regulated or licensed.

SUMMARY OF WRITTEN COMMENTS RECEIVED AFTER ENACTMENT OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The rule is supported by the Utah Health Care Association and the Health Facility Committee.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by Title 26, Chapter 21 of the Health Facility Licensure and Inspection Act. Currently there are no Mental Disease Facilities licensed in the State. The agency agrees with the need to continue the rule.

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

Health  
Health Systems Improvement,  
Health Facility Licensure  
288 North 1460 West  
Box 142853  
Salt Lake City, UT 84114-2853, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS FILING TO:  
Debra Wynkoop-Green at the above address, by phone at (801) 538-6320, by FAX at (801) 538-6325, or Internet E-mail at [dwynkoop@email.state.ut.us](mailto:dwynkoop@email.state.ut.us).

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 01/20/98



**End of the Five-Year Review Section**

## NOTICES OF EXPIRED RULES

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Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (UTAH CODE Section 63-46a-9 (1996)). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules (Division). However, if the agency fails to file either the review or the extension by the five-year anniversary date of the rule, the rule expires. Upon expiration of the rule, the Division is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule, and it must follow regular rulemaking procedures to replace the rule if necessary.

The rules listed below were *not* reviewed in accordance with Section 63-46a-9 (1996). These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by UTAH CODE Subsection 63-46a-9(8) (1996).

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### Natural Resources

#### Energy

No. 20718: R636-2. Public Petitions For Declaratory Rulings.

Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)

Five-Year Review: No. 14090, Filed 01/14/93 at 2:15 p.m., Published 02/01/93)

Expired: 02/01/98

No. 20719: R636-4. Confidential Energy Information.

Enacted: 07/01/87 (No. 8845, Filed 05/05/87 at 5:00 p.m., Published 05/15/87)

Five-Year Review: No. 14050, Filed 12/31/92 at 8:30 a.m., Published 02/01/93)

Expired: 02/01/98

No. 20720: R636-5. Administrative Procedures.

Enacted: 01/01/88 (No. 9143, Filed 11/20/87 at 3:35 p.m., Published 12/01/87)

Five-Year Review: No. 14051, Filed 12/31/92 at 8:30 a.m., Published 02/01/93)

Expired: 02/01/98

**End of the Expired Rules Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Commerce

#### Occupational and Professional Licensing

No. 20173 (CPR): R156-54. Radiology Technologist and Radiology Practical Technician Licensing Act Rules.  
Published: January 1, 1998  
Effective: February 3, 1998

No. 20395 (AMD): R156-60c. Professional Counselor Licensing Act Rules.  
Published: January 1, 1998  
Effective: February 3, 1998

No. 20342 (AMD): R156-61. Psychologist Licensing Act Rules.  
Published: January 1, 1998  
Effective: February 3, 1998

### Environmental Quality

#### Radiation Control

No. 20236 (AMD): R313-18. Notices, Instructions and Reports to Workers by Licensees or Registrants -- Inspections.  
Published: December 1, 1997  
Effective: January 23, 1998

No. 20237 (AMD): R313-25. License Requirements for Land Disposal of Radioactive Waste - General Provisions.  
Published: December 1, 1997  
Effective: January 23, 1998

No. 20238 (AMD): R313-32. Medical Use of Radioactive Material.  
Published: December 1, 1997  
Effective: January 23, 1998

### Health

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

No. 20345 (REP): R414-24. Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment.  
Published: January 1, 1998  
Effective: February 4, 1998

#### Health Systems Improvement, Child Care Licensing

No. 20264 (NEW): R430-2. General Licensing Provisions, Child Care Facilities  
Published: December 15, 1997  
Effective: February 4, 1998

### Human Services

#### Administration, Administrative Hearings

No. 20248 (AMD): R497-100. Adjudicative Proceedings.  
Published: December 15, 1997  
Effective: January 26, 1998

#### Child and Family Services

No. 20245 (AMD): R512-2. Child Welfare/Aid to Families with Dependent Children (AFDC) Foster Care/Adoption.  
Published: December 15, 1997  
Effective: February 1, 1998

### School and Institutional Trust Lands

#### Administration

No. 20395 (AMD): R850-80. Sale of Trust Lands.  
Published: January 1, 1998  
Effective: February 3, 1998

### Workforce Services

#### Employment Development

No. 20319 (AMD): R986-303-301. A, B, and D Medicaid and A, B, and D Institutional Medicaid Coverage Groups.  
Published: January 1, 1998  
Effective: February 3, 1998

**(DAR Note:** Correction notice - this effective notice was published in the January 15, 1998, *Bulletin*, as being effective January 2, 1998. That was incorrect (see Editor's Notes in this *Bulletin*). The correct date is February 3, 1998.)

No. 20208 (CPR): R986-417. Documentation.  
Published: January 1, 1998  
Effective: February 3, 1998

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all changes to Utah's administrative rules from January 2, 1998, to the present (current as of February 4, 1998). The *Rules Index* is published in the *Utah State Bulletin* and in the annual *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).

**NOTE:** A copy of the indexes is available for public inspection at the Division of Administrative Rules. The indexes may also be obtained by calling UtahBBS, the State of Utah's Bulletin Board System, at (801) 538-3383, or toll-free within Utah at (800) 882-4638. (**Please note:** the toll-free number to access the bulletin board will be disconnected as of March 15, 1998.) A computer, a modem, and a communications software package are required to access UtahBBS. Set communications software to 8 data bits, no parity, and 1 stop bit. The indexes are located under the "Administrative Rules Conference" (conference 9), in the "Indexes--Current" option (7).

UtahBBS may also be accessed over the Internet with a telnet client (the client must support download capabilities if downloading information is desired), or with a World Wide Web client (such as Mosaic or Netscape). The telnet address is bbs.state.ut.us; the web address is <http://web.state.ut.us/its/bbs.htm>.

## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

|                                |  |
|--------------------------------|--|
| AMD = Amendment                | NSC = Nonsubstantive rule change   |
| CPR = Change in proposed rule  | REP = Repeal   |
| EMR = Emergency rule (120 day) | R&R = Repeal and reenact   |
| NEW = New rule                 | * = Text too long to print in <i>Bulletin</i> , or<br>repealed text not printed in <i>Bulletin</i> |
| 5YR = Five-Year Review         |  |
| EXD = Expired                  |  |

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| <u>Facilities Construction and Management</u> |  |                |        |                   |                        |
| R23-4   | Suspension/Debarment From Consideration for Award of State Contracts                     | 20702          | 5YR    | 01/28/98          | 98-4/128               |
| R23-5   | Contingency Funds  | 20703          | 5YR    | 01/28/98          | 98-4/128               |
| R23-6   | Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations | 20704          | 5YR    | 01/28/98          | 98-4/129               |
| R23-7   | Utah State Building Board Policy Statement Master Planning                               | 20705          | 5YR    | 01/28/98          | 98-4/129               |

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| CODE REFERENCE                                   | TITLE   | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
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| R23-9  | Building Board State/Local Cooperation Policy                                 | 20707       | 5YR    | 01/28/98       | 98-4/130            |
| R23-10   | Naming of State Buildings   | 20708       | 5YR    | 01/28/98       | 98-4/131            |
| R23-11   | Facilities Allocation and Sale Procedures                                     | 20709       | 5YR    | 01/28/98       | 98-4/131            |
| R23-21   | Division of Facilities Construction and Management Lease Procedures           | 20710       | 5YR    | 01/28/98       | 98-4/132            |
| R23-24   | Capital Projects Utilizing Non-appropriated Funds                             | 20711       | 5YR    | 01/28/98       | 98-4/132            |
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| <u>Plant Industry</u>                            |   |             |        |                |                     |
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| <u>Regulatory Services</u>                       |   |             |        |                |                     |
| R70-201  | Compliance Procedures   | 20281       | NEW    | 01/15/98       | 97-24/14            |
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| R156-40  | Recreational Therapy Practice Act Rules                                       | 20697       | 5YR    | 01/27/98       | 98-4/133            |
| R156-54  | Radiology Technologist and Radiology Practical Technician Licensing Act Rules | 20173       | AMD    | see CPR        | 97-22/12            |
| R156-54  | Radiology Technologist and Radiology Practical Technician Licensing Act Rules | 20173       | CPR    | 02/03/98       | 98-1/199            |
| R156-59  | Employee Leasing Company Act Rules  | 20701       | 5YR    | 01/27/98       | 98-4/134            |
| R156-60c   | Professional Counselor Licensing Act Rules                                    | 20359       | AMD    | 02/03/98       | 98-1/6              |
| R156-60d   | Substance Abuse Counselor Act Rules   | 20273       | AMD    | 01/15/98       | 97-24/16            |
| R156-61  | Psychologist Licensing Act Rules  | 20342       | AMD    | 02/03/98       | 98-1/10             |
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| R251-703   | Vehicle Direction Station   | 20196       | AMD    | 01/15/98       | 97-23/6             |
| R251-707   | Legal Access  | 20198       | AMD    | 01/15/98       | 97-23/8             |
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| R277-518   | Vocational-Technical Certificates   | 20658       | 5YR    | 01/14/98       | 98-3/90             |

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| R277-605       | Extracurricular Student Activities  | 20660       | 5YR    | 01/14/98       | 98-3/91             |
| R277-606       | Interschool Competitive Sports in High School   | 20661       | 5YR    | 01/14/98       | 98-3/91             |
| R277-610       | Released-Time Classes for Religious Instruction   | 20662       | 5YR    | 01/14/98       | 98-3/91             |
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| R277-700       | The Elementary and Secondary School Core Curriculum and High School Graduation Requirements | 20664       | 5YR    | 01/14/98       | 98-3/92             |
| R277-701       | Values Education  | 20665       | 5YR    | 01/14/98       | 98-3/93             |
| R277-702       | Procedures for the Utah General Educational Developmental Certificate                       | 20666       | 5YR    | 01/14/98       | 98-3/93             |
| R277-709       | Education Programs Serving Youth in Custody   | 20667       | 5YR    | 01/14/98       | 98-3/94             |
| R277-710       | Accelerated Learning Programs   | 20668       | 5YR    | 01/14/98       | 98-3/94             |
| R277-716       | Alternative Language Services (ALS)   | 20669       | 5YR    | 01/14/98       | 98-3/94             |
| R277-718       | Utah Career Teaching Scholarship Program  | 20670       | 5YR    | 01/14/98       | 98-3/95             |
| R277-721       | Deadline for CACFP Sponsor Participation in Food Distribution Program                       | 20671       | 5YR    | 01/14/98       | 98-3/95             |
| R277-722       | Withholding Payments and Commodities in the CACFP   | 20672       | 5YR    | 01/14/98       | 98-3/96             |
| R277-730       | Alternative High School Curriculum  | 20673       | 5YR    | 01/14/98       | 98-3/96             |
| R277-732       | Community Education   | 20674       | 5YR    | 01/14/98       | 98-3/97             |

**ENVIRONMENTAL QUALITY**

Air Quality

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| R307-1-1  | Foreword and Definitions   | 20202 | AMD | 01/08/98 | 97-23/10 |
| R307-2-12 | Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide | 20099 | AMD | 01/08/98 | 97-21/14 |
| R307-8-3  | Average Oxygen Content Standard  | 20100 | AMD | 01/08/98 | 97-21/15 |

Radiation Control

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| R313-25 | License Requirements for Land Disposal of Radioactive Waste - General Provisions        | 20237 | AMD | 01/23/98 | 97-23/62 |
| R313-32 | Medical Use of Radioactive Material   | 20238 | AMD | 01/23/98 | 97-23/65 |

Solid and Hazardous Waste

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| R315-301-2 | Definitions | 19876 | AMD | see CPR  | 97-19/23  |
| R315-301-2 | Definitions | 19876 | CPR | 01/05/98 | 97-23/111 |

**HEALTH**

Health Care Financing, Coverage and Reimbursement Policy

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| R414-4X | Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment | 20648 | 5YR | 01/12/98 | 98-3/97  |
| R414-15 | Patients Personal Needs Fund   | 20232 | AMD | 01/13/98 | 97-23/80 |
| R414-17 | Policy on Use of Oxygen Concentrators  | 20212 | REP | 01/13/98 | 97-23/82 |

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| R414-24  | Policy Concerning the Time Frame in Which Medicaid Claims Must be Submitted for Payment   | 20345       | REP    | 02/04/98       | 98-1/51             |
| <u>Health Systems Improvement, Child Care Licensing</u>      |   |             |        |                |                     |
| R430-2   | General Licensing Provisions, Child Care Facilities   | 20264       | NEW    | 02/04/98       | 97-24/66            |
| R430-3   | General Care Facility Rules Inspection and Enforcement  | 20265       | NEW    | 01/21/98       | 97-24/69            |
| R430-6   | Background  | 20267       | NEW    | 01/20/98       | 97-24/75            |
| R430-10  | Notice of Intent to License, Hourly Care Provider   | 20645       | EMR    | 01/09/98       | 98-3/86             |
| R430-10  | Notice of Intent to License, Hourly Care Provider   | 20684       | EMR    | 01/20/98       | 98-4/122            |
| R430-30  | Adjudicative Procedure  | 20268       | NEW    | 01/21/98       | 97-24/79            |
| <u>Health Systems Improvement, Health Facility Licensure</u> |   |             |        |                |                     |
| R432-151   | Mental Disease Facility   | 20685       | 5YR    | 01/20/98       | 98-4/134            |
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| R497-100   | Adjudicative Proceedings  | 20248       | AMD    | 01/26/98       | 97-24/88            |
| <u>Aging and Adult Services</u>                              |   |             |        |                |                     |
| R510-100   | Funding Formulas  | 20634       | 5YR    | 01/08/98       | 98-3/98             |
| R510-101   | Carryover Policy for Title III: Grants for State and Community Programs on Aging  | 20635       | 5YR    | 01/08/98       | 98-3/99             |
| R510-102   | Amendments to Area Plan and Management Plan   | 20636       | 5YR    | 01/08/98       | 98-3/99             |
| R510-103   | Use of Senior Centers by Long Term Care Facility Residents and Senior Citizens' Groups Participating in Activities Outside Their Planning and Service Area  | 20637       | 5YR    | 01/08/98       | 98-3/100            |
| R510-106   | Minimum Percentage of Older Americans Act, Title III: Grants for State and Community Programs on Aging Part B: Supportive Services and Senior Centers Funds That an Area Agency on Aging Must Spend on Access, In-home and Legal Assistance | 20638       | 5YR    | 01/08/98       | 98-3/100            |
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| R510-109   | Definition of Significant Population of Older Native Americans  | 20641       | 5YR    | 01/08/98       | 98-3/102            |
| R510-110   | Policy Regarding Contractual Involvements of Area Agencies on Aging for Private Eldercare and Case Management Services  | 20642       | 5YR    | 01/08/98       | 98-3/102            |
| R510-200   | Long-Term Care Ombudsman Program Policy   | 20643       | 5YR    | 01/08/98       | 98-3/103            |

| CODE REFERENCE                              | TITLE   | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
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| R527-5                                      | Release of Information  | 20240       | AMD    | 01/05/98       | 97-23/83            |
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| R636-4                                      | Confidential Energy Information   | 20719       | EXD    | 02/01/98       | 98-4/136            |
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| R657-37                                     | Cooperative Wildlife Management Units for Big Game                                | 20243       | AMD    | 01/15/98       | 97-24/104           |
| R657-38                                     | Dedicated Hunter Program  | 20244       | AMD    | 01/15/98       | 97-24/105           |
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| R710-9                                      | Rules Pursuant to the Utah Fire Prevention Law                                    | 20278       | AMD    | 01/15/98       | 97-24/109           |
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| R909-1                               | Safety Regulations for Motor Carriers   | 20276       | AMD    | 01/15/98       | 97-24/111           |
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| R986-412                             | Conditions of Eligibility   | 20206       | AMD    | 01/02/98       | 97-23/98            |
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| R986-417                             | Documentation   | 20208       | CPR    | 02/03/98       | 98-1/120            |
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| R986-420                             | Maximum Allotments  | 20210       | AMD    | 01/02/98       | 97-23/102           |
| R986-421                             | Demonstration Programs  | 20211       | AMD    | 01/02/98       | 97-23/103           |

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**RULES INDEX - BY KEYWORD (SUBJECT)**

**ABBREVIATIONS**

|                                |   |
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| KEYWORD AGENCY  | FILE NUMBER | CODE REFERENCE | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
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| Education, Administration                               | 20657       | R277-516       | 5YR    | 01/14/98       | 98-3/89             |
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| Human Services, Administration, Administrative Hearings | 20248       | R497-100       | AMD    | 01/26/98       | 97-24/88            |
| Natural Resources, Energy                               | 20718       | R636-2         | EXD    | 02/01/98       | 98-4/136            |

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| School and Institutional Trust Lands,<br>Administration                             | 20395          | R850-80           | AMD    | 02/03/98          | 98-1/108               |
| <b><u>ADOPTION</u></b>  |                |                   |        |                   |                        |
| Human Services, Child and Family<br>Services  | 20245          | R512-2            | AMD    | 02/01/98          | 97-24/90               |
| <b><u>ADULT EDUCATION</u></b>   |                |                   |        |                   |                        |
| Education, Administration   | 20666          | R277-702          | 5YR    | 01/14/98          | 98-3/93                |
| <b><u>AGRICULTURAL LAW</u></b>  |                |                   |        |                   |                        |
| Agriculture and Food, Animal Industry   | 20279          | R58-19            | NEW    | 01/15/98          | 97-24/12               |
| Agriculture and Food, Plant Industry  | 20280          | R68-19            | NEW    | 01/15/98          | 97-24/13               |
| Agriculture and Food, Regulatory<br>Services  | 20281          | R70-201           | NEW    | 01/15/98          | 97-24/14               |
| <b><u>AIR POLLUTION</u></b>   |                |                   |        |                   |                        |
| Environmental Quality, Air Quality  | 20096          | R307-1-1          | AMD    | 01/08/98          | 97-21/4                |
|   | 20202          | R307-1-1          | AMD    | 01/08/98          | 97-23/10               |
|   | 20099          | R307-2-12         | AMD    | 01/08/98          | 97-21/14               |
|   | 20100          | R307-8-3          | AMD    | 01/08/98          | 97-21/15               |
| <b><u>ALTERNATIVE LANGUAGE SERVICES</u></b>   |                |                   |        |                   |                        |
| Education, Administration   | 20669          | R277-716          | 5YR    | 01/14/98          | 98-3/94                |
| <b><u>ALTERNATIVE SCHOOL</u></b>  |                |                   |        |                   |                        |
| Education, Administration   | 20673          | R277-730          | 5YR    | 01/14/98          | 98-3/96                |
| <b><u>ANTIPOVERTY PROGRAMS</u></b>  |                |                   |        |                   |                        |
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| <b><u>BENEFITS</u></b>  |                |                   |        |                   |                        |
| Workforce Services, Employment<br>Development                                       | 20224          | R986-302          | AMD    | 01/02/98          | 97-23/97               |
|   | 20208          | R986-417          | AMD    | see CPR           | 97-23/100              |
|   | 20208          | R986-417          | CPR    | 02/03/98          | 98-1/120               |
| <b><u>BIG GAME SEASONS</u></b>  |                |                   |        |                   |                        |
| Natural Resources, Wildlife Resources   | 20241          | R657-5            | AMD    | 01/15/98          | 97-24/95               |
| <b><u>BRACHYTHERAPY</u></b>   |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control  | 20238          | R313-32           | AMD    | 01/23/98          | 97-23/65               |
| <b><u>BUDGETING</u></b>   |                |                   |        |                   |                        |
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| <b><u>BUILDINGS</u></b>   |                |                   |        |                   |                        |
| Administrative Services, Facilities<br>Construction and Management                  | 20703          | R23-5             | 5YR    | 01/28/98          | 98-4/128               |
|   | 20708          | R23-10            | 5YR    | 01/28/98          | 98-4/131               |
|   | 20709          | R23-11            | 5YR    | 01/28/98          | 98-4/131               |
|   | 20711          | R23-24            | 5YR    | 01/28/98          | 98-4/132               |
| <b><u>CAREER EDUCATION</u></b>  |                |                   |        |                   |                        |
| Education, Administration   | 20670          | R277-718          | 5YR    | 01/14/98          | 98-3/95                |

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| <b><u>CHILD CARE FACILITIES</u></b>   |                |                   |        |                   |                        |
| Health, Health Systems Improvement, Child Care Licensing                      | 20264          | R430-2            | NEW    | 02/04/98          | 97-24/66               |
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|   | 20267          | R430-6            | NEW    | 01/20/98          | 97-24/75               |
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|   | 20268          | R430-30           | NEW    | 01/21/98          | 97-24/79               |
| <b><u>CHILD SUPPORT</u></b>   |                |                   |        |                   |                        |
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|   | 20240          | R527-5            | AMD    | 01/05/98          | 97-23/83               |
| <b><u>CHILD WELFARE</u></b>   |                |                   |        |                   |                        |
| Human Services, Child and Family Services                                     | 20245          | R512-2            | AMD    | 02/01/98          | 97-24/90               |
| <b><u>CIVIL RIGHTS</u></b>  |                |                   |        |                   |                        |
| Natural Resources, Administration   | 20256          | R634-1            | NEW    | 01/15/98          | 97-24/92               |
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| Natural Resources, Energy   | 20719          | R636-4            | EXD    | 02/01/98          | 98-4/136               |
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| Administrative Services, Facilities Construction and Management               | 20702          | R23-4             | 5YR    | 01/28/98          | 98-4/128               |
| <b><u>CONSTRUCTION COSTS</u></b>  |                |                   |        |                   |                        |
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| <b><u>CONSTRUCTION DISPUTES</u></b>   |                |                   |        |                   |                        |
| Administrative Services, Facilities Construction and Management               | 20702          | R23-4             | 5YR    | 01/28/98          | 98-4/128               |
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| <b><u>CORRECTIONS</u></b>                          |                |                   |              |                   |                        |
| Corrections, Administration                        | 20160          | R251-107          | AMD          | 01/15/98          | 97-22/16               |
|  | 20198          | R251-707          | AMD          | 01/15/98          | 97-23/8                |
| <b><u>COUNSELORS</u></b>                           |                |                   |              |                   |                        |
| Commerce, Occupational and Professional Licensing  | 20359          | R156-60c          | AMD          | 02/03/98          | 98-1/6                 |
| <b><u>COVERAGE GROUPS</u></b>                      |                |                   |              |                   |                        |
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|  | 20667          | R277-709          | 5YR          | 01/14/98          | 98-3/94                |
|  | 20670          | R277-718          | 5YR          | 01/14/98          | 98-3/95                |
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| Human Services, Aging and Adult Services           | 20642          | R510-110          | 5YR          | 01/08/98          | 98-3/102               |
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| Human Services, Aging and Adult Services           | 20634          | R510-100          | 5YR          | 01/08/98          | 98-3/98                |
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|  | 20636          | R510-102          | 5YR          | 01/08/98          | 98-3/99                |
|  | 20637          | R510-103          | 5YR          | 01/08/98          | 98-3/100               |
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|  | 20640          | R510-108          | 5YR          | 01/08/98          | 98-3/101               |
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|  | 20644          | R510-400          | 5YR          | 01/08/98          | 98-3/103               |
| <b><u>ELIGIBILITY</u></b>                          |                |                   |              |                   |                        |
| Human Services, Child and Family Services          | 20245          | R512-2            | AMD          | 02/01/98          | 97-24/90               |
| <b><u>EMPLOYEE LEASING COMPANY</u></b>             |                |                   |              |                   |                        |
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| Human Services, Aging and Adult Services           | 20639          | R510-107          | 5YR          | 01/08/98          | 98-3/101               |

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| Commerce, Occupational and Professional Licensing                             | 20696          | R156-22           | 5YR    | 01/27/98          | 98-4/133               |
| <b><u>ENVIRONMENTAL PROTECTION</u></b>  |                |                   |        |                   |                        |
| Environmental Quality, Air Quality  | 20099          | R307-2-12         | AMD    | 01/08/98          | 97-21/14               |
| <b><u>EQUAL ACCESS</u></b>  |                |                   |        |                   |                        |
| Public Service Commission, Administration                                     | 20592          | R746-356-2        | NSC    | 01/06/98          | Not Printed            |
| <b><u>ETHICS</u></b>  |                |                   |        |                   |                        |
| Natural Resources, Wildlife Resources   | 20244          | R657-38           | AMD    | 01/15/98          | 97-24/105              |
| <b><u>EXCEPTIONAL CHILDREN</u></b>  |                |                   |        |                   |                        |
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| Corrections, Administration   | 20160          | R251-107          | AMD    | 01/15/98          | 97-22/16               |
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| Public Safety, Fire Marshal   | 20277          | R710-7            | AMD    | 01/15/98          | 97-24/108              |
|   | 20278          | R710-9            | AMD    | 01/15/98          | 97-24/109              |
| <b><u>FOOD AID PROGRAMS</u></b>   |                |                   |        |                   |                        |
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| Workforce Services, Employment Development                                    | 20208          | R986-417          | AMD    | see CPR           | 97-23/100              |
|   | 20208          | R986-417          | CPR    | 02/03/98          | 98-1/120               |
|   | 20209          | R986-419          | AMD    | 01/02/98          | 97-23/102              |
|   | 20210          | R986-420          | AMD    | 01/02/98          | 97-23/102              |
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| Natural Resources, Wildlife Resources   | 20241          | R657-5            | AMD    | 01/15/98          | 97-24/95               |
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| Environmental Quality, Air Quality  | 20100          | R307-8-3          | AMD    | 01/08/98          | 97-21/15               |

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| Human Services, Aging and Adult<br>Services   | 20644          | R510-400          | 5YR    | 01/08/98          | 98-3/103               |
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| Natural Resources, Wildlife Resources   | 20244          | R657-38           | AMD    | 01/15/98          | 97-24/105              |
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| Workforce Services, Employment<br>Development                                       | 20224          | R986-302          | AMD    | 01/02/98          | 97-23/97               |
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|   | 20207          | R986-414          | AMD    | 01/02/98          | 97-23/99               |
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|   | 20173          | R156-54           | AMD    | see CPR           | 97-22/12               |
|   | 20173          | R156-54           | CPR    | 02/03/98          | 98-1/199               |
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|  | 20653          | R414-22           | 5YR    | 01/13/98          | 98-3/97                |
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|  | 20202          | R307-1-1          | AMD    | 01/08/98          | 97-23/10               |
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| Administrative Services, Facilities Construction and Management  | 20708          | R23-10            | 5YR    | 01/28/98          | 98-4/131               |
| <b><u>NATIVE AMERICAN</u></b>                                    |                |                   |        |                   |                        |
| Human Services, Aging and Adult Services                         | 20641          | R510-109          | 5YR    | 01/08/98          | 98-3/102               |
| <b><u>NUCLEAR MEDICINE</u></b>                                   |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control                         | 20238          | R313-32           | AMD    | 01/23/98          | 97-23/65               |
| <b><u>NURSING HOMES</u></b>                                      |                |                   |        |                   |                        |
| Human Services, Aging and Adult Services                         | 20637          | R510-103          | 5YR    | 01/08/98          | 98-3/100               |
| <b><u>OMBUDSMAN</u></b>  |                |                   |        |                   |                        |
| Human Services, Aging and Adult Services                         | 20643          | R510-200          | 5YR    | 01/08/98          | 98-3/103               |
| <b><u>OVERSIZE/OVERWEIGHT TRUCKS</u></b>                         |                |                   |        |                   |                        |
| Transportation, Motor Carrier, Ports of Entry                    | 20646          | R912-4            | 5YR    | 01/12/98          | 98-3/104               |
| <b><u>PARTICULATE MATTER</u></b>                                 |                |                   |        |                   |                        |
| Environmental Quality, Air Quality                               | 20099          | R307-2-12         | AMD    | 01/08/98          | 97-21/14               |

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| <b><u>PERMITS</u></b>   |                |                   |        |                   |                        |
| Transportation, Motor Carrier, Ports of Entry                   | 20646          | R912-4            | 5YR    | 01/12/98          | 98-3/104               |
| <b><u>PETROLEUM</u></b>   |                |                   |        |                   |                        |
| Environmental Quality, Air Quality                              | 20100          | R307-8-3          | AMD    | 01/08/98          | 97-21/15               |
| <b><u>PLANNING-PROGRAMMING-BUDGETING</u></b>                    |                |                   |        |                   |                        |
| Administrative Services, Facilities Construction and Management | 20705          | R23-7             | 5YR    | 01/28/98          | 98-4/129               |
|   | 20706          | R23-8             | 5YR    | 01/28/98          | 98-4/130               |
| <b><u>POPULATION</u></b>  |                |                   |        |                   |                        |
| Human Services, Aging and Adult Services                        | 20641          | R510-109          | 5YR    | 01/08/98          | 98-3/102               |
| <b><u>PRISONS</u></b>   |                |                   |        |                   |                        |
| Corrections, Administration                                     | 20160          | R251-107          | AMD    | 01/15/98          | 97-22/16               |
|   | 20196          | R251-703          | AMD    | 01/15/98          | 97-23/6                |
|   | 20198          | R251-707          | AMD    | 01/15/98          | 97-23/8                |
| <b><u>PRIVACY LAW</u></b>                                       |                |                   |        |                   |                        |
| Human Services, Recovery Services                               | 20240          | R527-5            | AMD    | 01/05/98          | 97-23/83               |
| <b><u>PROFESSIONAL COMPETENCY</u></b>                           |                |                   |        |                   |                        |
| Education, Administration                                       | 20657          | R277-516          | 5YR    | 01/14/98          | 98-3/89                |
| <b><u>PROFESSIONAL COUNSELORS</u></b>                           |                |                   |        |                   |                        |
| Commerce, Occupational and Professional Licensing               | 20359          | R156-60c          | AMD    | 02/03/98          | 98-1/6                 |
| <b><u>PROFESSIONAL EDUCATION</u></b>                            |                |                   |        |                   |                        |
| Education, Administration                                       | 20658          | R277-518          | 5YR    | 01/14/98          | 98-3/90                |
| <b><u>PROFESSIONAL ENGINEERS</u></b>                            |                |                   |        |                   |                        |
| Commerce, Occupational and Professional Licensing               | 20696          | R156-22           | 5YR    | 01/27/98          | 98-4/133               |
| <b><u>PROFESSIONAL LAND SURVEYORS</u></b>                       |                |                   |        |                   |                        |
| Commerce, Occupational and Professional Licensing               | 20696          | R156-22           | 5YR    | 01/27/98          | 98-4/133               |
| <b><u>PSYCHOLOGISTS</u></b>                                     |                |                   |        |                   |                        |
| Commerce, Occupational and Professional Licensing               | 20342          | R156-61           | AMD    | 02/03/98          | 98-1/10                |
| <b><u>PUBLIC BUILDINGS</u></b>                                  |                |                   |        |                   |                        |
| Administrative Services, Facilities Construction and Management | 20704          | R23-6             | 5YR    | 01/28/98          | 98-4/129               |
|   | 20705          | R23-7             | 5YR    | 01/28/98          | 98-4/129               |
|   | 20706          | R23-8             | 5YR    | 01/28/98          | 98-4/130               |
| <b><u>PUBLIC EDUCATION</u></b>                                  |                |                   |        |                   |                        |
| Education, Administration                                       | 20669          | R277-716          | 5YR    | 01/14/98          | 98-3/94                |
| <b><u>PUBLIC UTILITIES</u></b>                                  |                |                   |        |                   |                        |
| Public Service Commission, Administration                       | 20626          | R746-331          | EMR    | 01/05/98          | 98-3/87                |
| <b><u>RADIATION</u></b>   |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control                        | 20237          | R313-25           | AMD    | 01/23/98          | 97-23/62               |

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| <b><u>RADIATION SAFETY</u></b>                                     |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control                           | 20236          | R313-18           | AMD    | 01/23/98          | 97-23/61               |
| <b><u>RADIOACTIVE MATERIAL</u></b>                                 |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control                           | 20236          | R313-18           | AMD    | 01/23/98          | 97-23/61               |
|  | 20238          | R313-32           | AMD    | 01/23/98          | 97-23/65               |
| <b><u>RADIOACTIVE WASTE DISPOSAL</u></b>                           |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control                           | 20237          | R313-25           | AMD    | 01/23/98          | 97-23/62               |
| <b><u>RADIOLOGY PRACTICAL TECHNICIAN</u></b>                       |                |                   |        |                   |                        |
| Commerce, Occupational and<br>Professional Licensing               | 20173          | R156-54           | AMD    | see CPR           | 97-22/12               |
|  | 20173          | R156-54           | CPR    | 02/03/98          | 98/1/199               |
| <b><u>RADIOLOGY TECHNOLOGIST</u></b>                               |                |                   |        |                   |                        |
| Commerce, Occupational and<br>Professional Licensing               | 20173          | R156-54           | AMD    | see CPR           | 97-22/12               |
|  | 20173          | R156-54           | CPR    | 02/03/98          | 98/1/199               |
| <b><u>RADIOPHARMACEUTICAL</u></b>                                  |                |                   |        |                   |                        |
| Environmental Quality, Radiation Control                           | 20238          | R313-32           | AMD    | 01/23/98          | 97-23/65               |
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| Natural Resources, Wildlife Resources                              | 20244          | R657-38           | AMD    | 01/15/98          | 97-24/105              |
| <b><u>RECREATIONAL THERAPY</u></b>                                 |                |                   |        |                   |                        |
| Commerce, Occupational and<br>Professional Licensing               | 20697          | R156-40           | 5YR    | 01/27/98          | 98-4/133               |
| <b><u>RELIGIOUS EDUCATION</u></b>                                  |                |                   |        |                   |                        |
| Education, Administration  | 20662          | R277-610          | 5YR    | 01/14/98          | 98-3/91                |
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| Administrative Services, Facilities<br>Construction and Management | 20726          | R986-305          | EMR    | 02/12/98          | 98-4/123               |
| <b><u>RURAL POLICY</u></b>   |                |                   |        |                   |                        |
| Human Services, Aging and Adult<br>Services                        | 20640          | R510-108          | 5YR    | 01/08/98          | 98-3/100               |
| <b><u>SAFETY REGULATION</u></b>                                    |                |                   |        |                   |                        |
| Transportation, Motor Carrier, Ports of<br>Entry                   | 20646          | R912-4            | 5YR    | 01/12/98          | 98-3/104               |
| <b><u>SALES</u></b>  |                |                   |        |                   |                        |
| School and Institutional Trust Lands,<br>Administration            | 20395          | R850-80           | AMD    | 02/03/98          | 98-1/108               |
| <b><u>SCHOOL BUSES</u></b>   |                |                   |        |                   |                        |
| Education, Administration  | 20659          | R277-600          | 5YR    | 01/14/98          | 98-3/90                |
| <b><u>SCHOOL PERSONNEL</u></b>                                     |                |                   |        |                   |                        |
| Education, Administration  | 20657          | R277-516          | 5YR    | 01/14/98          | 98-3/89                |
| <b><u>SCHOOL TRANSPORTATION</u></b>                                |                |                   |        |                   |                        |
| Education, Administration  | 20659          | R277-600          | 5YR    | 01/14/98          | 98-3/90                |
| <b><u>SENIOR CENTERS</u></b>                                       |                |                   |        |                   |                        |
| Human Services, Aging and Adult<br>Services                        | 20637          | R510-103          | 5YR    | 01/08/98          | 98-3/100               |

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| <b><u>SMALL BUSINESS ASSISTANCE PROGRAM</u></b>                 |                |                   |        |                   |                        |
| Environmental Quality, Air Quality                              | 20099          | R307-2-12         | AMD    | 01/08/98          | 97-21/14               |
| <b><u>SOCIAL SECURITY</u></b>                                   |                |                   |        |                   |                        |
| Workforce Services, Employment Development                      | 20206          | R986-412          | AMD    | 01/02/98          | 97-23/98               |
| <b><u>SOCIAL SERVICES</u></b>                                   |                |                   |        |                   |                        |
| Human Services, Administration, Administrative Hearings         | 20248          | R497-100          | AMD    | 01/26/98          | 97-24/88               |
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|   | 19876          | R315-301-2        | CPR    | 01/05/98          | 97-23/111              |
| <b><u>SPACE UTILIZATION</u></b>                                 |                |                   |        |                   |                        |
| Administrative Services, Facilities Construction and Management | 20709          | R23-11            | 5YR    | 01/28/98          | 98-4/131               |
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| <b><u>STUDENT COMPETENCY</u></b>                                |                |                   |        |                   |                        |
| Education, Administration                                       | 20666          | R277-702          | 5YR    | 01/14/98          | 98-3/93                |
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| Education, Administration                                       | 20670          | R277-718          | 5YR    | 01/14/98          | 98-3/95                |
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| Education, Administration                                       | 20667          | R277-709          | 5YR    | 01/14/98          | 98-3/94                |
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| Commerce, Occupational and Professional Licensing               | 20273          | R156-60d          | AMD    | 01/15/98          | 97-24/16               |
| <b><u>SURVEYORS</u></b>   |                |                   |        |                   |                        |
| Commerce, Occupational and Professional Licensing               | 20696          | R156-22           | 5YR    | 01/27/98          | 98-4/133               |
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| Transportation, Motor Carrier                                      | 20276          | R909-1            | AMD    | 01/15/98          | 97-24/111              |
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| Administrative Services, Facilities<br>Construction and Management | 20726          | R986-305          | EMR    | 02/12/98          | 98-4/123               |
| <b><u>VOCATIONAL EDUCATION</u></b>                                 |                |                   |        |                   |                        |
| Education, Administration  | 20658          | R277-518          | 5YR    | 01/14/98          | 98-3/90                |
| <b><u>WASTE DISPOSAL</u></b>                                       |                |                   |        |                   |                        |
| Environmental Quality, Solid and<br>Hazardous Waste                | 19876          | R315-301-2        | AMD    | see CPR           | 97-19/23               |
|  | 19876          | R315-301-2        | CPR    | 01/05/98          | 97-23/111              |
| <b><u>WATER</u></b>  |                |                   |        |                   |                        |
| Public Service Commission,<br>Administration                       | 20626          | R746-331          | EMR    | 01/05/98          | 98-3/87                |
| <b><u>WELFARE</u></b>  |                |                   |        |                   |                        |
| Human Services, Recovery Services                                  | 20647          | R527-3            | 5YR    | 01/12/98          | 98-3/104               |
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| Natural Resources, Wildlife Resources                              | 20241          | R657-3            | AMD    | 01/15/98          | 97-24/95               |
|  | 20243          | R657-37           | AMD    | 01/15/98          | 97-24/104              |
|  | 20244          | R657-38           | AMD    | 01/15/98          | 97-24/105              |
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