

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 (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. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.state.ut.us/>

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SPECIAL NOTICES

EXECUTIVE ORDER

Whereas, severe drought conditions exist and continue to worsen in Daggett and Garfield counties, Utah, and present a serious threat to human life, health, private property, agriculture and the economy; and

Whereas, the current drought conditions have and will continue to cause adverse effects to agricultural producers, the tourism industry and threaten the health and culinary water needs of the residents of Daggett and Garfield counties; and

Whereas, restrictions have been placed on culinary water use in Daggett County; and

Whereas, livestock producers in Garfield County have been forced to withdraw their cattle from summer ranges much earlier than usual and lands historically used for winter ranges have not produced a sufficient amount of feed to sustain normal numbers of cattle; and

Whereas, livestock producers in Garfield County will have to feed their cattle hay throughout the winter; and

Whereas, declining water conditions at Panguitch Lake, Wide Hollow Reservoir and Tropic Reservoir in Garfield County have caused a significant decline in hay production in that county; and

Whereas, there are Stage 2 fire restrictions currently in place and more restrictive conditions are anticipated; and

Whereas, the potential for wildfires throughout the entire State of Utah remains extreme; and

Whereas, the wildfire threat is increasing as drought conditions persist and may require additional firefighting resources which are very limited due to the number of wildfires burning throughout the western part of the United States; and

Whereas, the forecast for continuing and worsening drought in Daggett and Garfield counties and the entire State of Utah is not expected to change in the near future; and

Whereas, the situation has the potential to greatly worsen if left unattended; and

Whereas, immediate action is required to protect public health and safety, public and private property, agriculture and the environment; and

Whereas, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981, and

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah,

Do Hereby Order That: It is found, determined and declared that a "State of Emergency" exists due to the aforesaid drought conditions and wildfire potential in Daggett and Garfield counties and is declared to be a disaster requiring aid, assistance and relief available pursuant to the provisions of the state statutes, and the State Emergency Operations Plan, which is hereby activated.

In Testimony, Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 25h day of August, 2000.

(State Seal)

Michael O. Leavitt
Governor

Attest:

Olene S. Walker
Lieutenant Governor

EXECUTIVE ORDER

Whereas, the danger from wildland fires is extremely high throughout the State of Utah; and

Whereas, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment; and

Whereas, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended; and

Whereas, immediate action is required to suppress the fires to protect public safety, property, natural resources and the environment; and

Whereas, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981; and

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the power vested in me by the constitution and the laws of the State of Utah;

Do Hereby Order That: It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of August 29, 2000, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

In Testimony, Whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 29th day of August, 2000.

(State Seal)

Michael O. Leavitt
Governor

Attest:

Olene S. Walker
Lieutenant Governor

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, LIBRARY

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 00-17, dated August 21, 2000 (<http://www.state.lib.ut.us/00-17.html>); and List No. 00-18, dated September 5, 2000 (<http://www.state.lib.ut.us/00-18.html>). For copies of the complete lists, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view them on the World Wide Web at the addresses above.

NOTICES OF PROPOSED RULES

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 August 16, 2000, 12:00 a.m., and September 1, 2000, 11:59 p.m., are included in this, the September 15, 2000, 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 October 16, 2000. 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 January 13, 2001, 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.

The Proposed Rules Begin on the Following Page.

Administrative Services, Fleet
Operations

R27-3

Vehicle Use Standards

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23120

FILED: 08/29/2000, 13:29

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To establish guidelines for the use of State-owned vehicles.

SUMMARY OF THE RULE OR CHANGE: Sets standards by which all State employees shall conduct business in State-owned vehicles.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-9-401(1)(c)

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: None--these are standards of action.
- ❖LOCAL GOVERNMENTS: None--we do not purchase vehicles for local government
- ❖OTHER PERSONS: None--these are standards for State-owned vehicles

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--this is a rule of standards.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I can see no fiscal impact on businesses. The rule has been written to set standards for State employees while driving a State-owned vehicle--Raylene Ireland

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

Administrative Services
Fleet Operations
4120 State Office Building
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alison Taylor at the above address, by phone at (801) 538-3306, by FAX at (801) 538-1773, or by Internet E-mail at ataylor@fo.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Steve Saltzgeber, Director

R27. Administrative Services, Fleet Operations.

R27-3. Vehicle Use Standards.

R27-3-1. Authority and Purpose.

(1) Pursuant to Subsection 63A-9-401(1)(c) the Division of Fleet Operations shall be responsible for establishing requirements governing business and personal uses, including commute and travel standards, safety and loss preventions programs, preventive maintenance programs, billing standards, reassignment and relocation of state-owned vehicles.

(2) This rule defines the standards of conduct, of state employees' while operating a state vehicle.

R27-3-2. Agency Contact.

(1) Agencies shall provide a main contact person from within their agency.

(a) A Main contact person shall act as a liaison between the Division of Fleet Operations and the agency.

(b) A Main contact person shall distribute all materials sent out to drivers of leased vehicles, including but not limited to roadside assistance information, Fleet Rules Manual and fueling information.

R27-3-3. All Operators of State-Owned Vehicles Must be Authorized.

(1) State Driving privileges shall be withdrawn if the operator's, driver's license is invalid, suspended or revoked.

(a) Failure to obey traffic laws while operating a state vehicle may result in loss of State driving privileges.

(b) All payments of traffic citations or parking tickets received while using a State-owned vehicle shall be the responsibility of the individual to whom they have been issued or by the individual's agency of employment.

R27-3-4. Authorized Use of a State Vehicle.

State vehicles shall be used for official state business or pre-approved personal business.

R27-3-5. Unauthorized Use of a State Vehicle.

(1) State Vehicles shall not be used for any unauthorized purposes.

(a) Transporting non-authorized passengers including, but not limited to any type of animal.

(b) Transporting hitchhikers.

(c) Transporting acids, explosives, weapons, ammunition or any other highly flammable materials unless it is specifically related to employment duties.

(d) Operating a state-owned vehicle while under the influence of alcohol or any drug or any combination drug, drugs or alcohol pursuant to sub-sections 41-6-44-(2) and 63-30-36-(3).

R27-3-6. Personal Use Standards.

Personal use of state-owned vehicles is not allowed without the direct authorization of the Legislature, or the employee's Agency Head.

R27-3-7. Application for Commute Use.

(1) Each petitioning agency shall submit a completed and approved MP-2 form to the Division of Fleet Operations.

(a) Approval for commute privileges must be obtained from the Agency Head of the requesting agency before being submitted to the Division of Fleet Operations Director for final approval and processing. MP-2 forms shall be returned to the requesting Department Head after final approval.

(b) All approved commute drivers will be assessed the IRS Daily Rate while using a State-owned vehicle. Each commuter will also receive an IRS 1099 form to report the additional income.

(c) The MP-2 form shall be completed and submitted annually by the department, for continued commute privileges.

(d) The agency shall be responsible to enter any additional income reported through commute use privileges into the State's payroll system using the correct commute approval number for each individual.

R27-3-8. Commute Approval Criteria.

(1) Commute privileges are approved by the employee's Agency Head, and the Division of Fleet Operations Director if employment description includes one of the following criteria:

(a) Subject to 24-hour "On-Call": where it can be clearly demonstrated that the nature of a potential emergency is such that an increase in response time, if a commute privilege is not authorized, could endanger a human life or cause significant property damage. If emergency response is the sole purpose of the commute privilege, each driver is required to submit a complete list of all call-outs on the monthly DF-61 form and to send copies to the Department of Administrative Services, Division of Finance.

(b) Virtual office: where an employee is required to work at home or out of a vehicle, a minimum of 80 percent of the time and the assigned vehicle is required to perform critical duties in a manner that is clearly in the best interest of the state.

(c) Alternate work-site: when it is more practical for the employee to go directly to an alternate work-site rather than report to a specific office to pick-up a state owned vehicle.

(d) Provided as compensation by state statute: for appointed or elected government officials who are specifically allowed by state statute to have an assigned vehicle as part of their compensation package. Individuals using this criteria must cite the appropriate section of Utah Code on MP-2 form the before approval is granted.

(e) Other: justification for this commute privilege is provided in extreme emergency situations not described above. Those using this criterion must submit a detailed explanation as to why the commute should be authorized. The employees' Agency Head and the Division of Fleet Operations Director will approve this type of request on a case-by-case basis. The commute privilege will be approved for a specific position or function within an organization rather than tied to a vehicle or person.

R27-3-9. Commute Exceptions.

(1) Law enforcement as defined in section 53-13-103. Law enforcement vehicles and drivers shall be tracked by DFO as exclusive use, for information gathering purposes.

(2) Other exceptions defined by IRS code.

R27-3-10. Enforcement of Commute and Personal Use Standards.

(1) Agencies with approved commute drivers shall establish internal policies to enforce commute and personal use standards. Penalties for unauthorized commute and personal use of a State-owned vehicles shall include suspension of commute privileges for repeat offenses.

(2) The Division of Fleet Operations reserves the right to withdraw commute privileges at any time and for any reason.

(3) Agencies shall establish internal policies and procedures to prevent unauthorized and intentional misuse of State-owned vehicles.

R27-3-11. Travel Use Standards.

(1) An authorized driver of the state having to spend at least one night on approved travel, to conduct state business, may use a state vehicle in the general vicinity of the overnight lodging for following approved activities:

(a) travel to restaurants and stores for meals, breaks and personal health needs;

(b) grooming, medical, fitness or laundry needs;

(c) and pre-approved recreational activities, such as theaters, parks, a friend's or relative's homes.

R27-3-12. Long-Term Lease Requirements.

(1) The Division of Fleet Operations, through the State Motor Pool, offer vehicles for use by state employee's on a long-term lease basis at an approved lease rate. Drivers of state-owned vehicles offered for long-term lease shall abide by the following:

(a) Authorized drivers shall have in their possession a valid drivers license when operating a state vehicle.

(b) Authorized drivers shall follow all rules, policies and procedures published by DFO governing the use of State-owned vehicles.

(c) Authorized drivers shall report correct odometer reading when utilizing a state fueling card for authorized transactions. The agencies of drivers not furnishing mileage or providing incorrect mileage may be assessed a fee.

(d) Authorized drivers shall return the vehicle in good repair at the completion of the lease or when the vehicle has met the criteria for replacement. The agencies of drivers returning vehicles in need of excessive cleaning may be charged a detailing fee.

(e) The agencies of drivers involved in an accidents while operating a long-term lease vehicle shall be responsible to pay the insurance deductible associated with the vehicle.

(f) Advertising or bumper stickers shall not be placed on state vehicles without prior approval of DFO.

(2) When requesting a long-term lease, agencies shall follow the terms and conditions listed in Section R27-4-6.

R27-3-13. Vehicle Utilization and Rotation.

(1) Each agency leasing vehicles from DFO shall conduct an annual vehicle review. Vehicles that are determined to be underutilized may be re-assigned.

(a) Agencies shall verify that the information gathered by DFO is correct. Information shall include the year, make, model, vehicle identification number (VIN), actual miles per month, average miles per year, driver and/or program that the vehicle is assigned and the location of the vehicle.

(2) Long-term leased vehicles shall be driven the minimum amount of miles, as defined in the DFO service level agreement, per month, averaged throughout a one year period. Specialty vehicles may be excluded from the audit.

(3) Vehicles that are not utilized according to the minimum use standard shall be reviewed by the MVRC to determine if the vehicle should be reassigned to a different agency with greater transportation needs. Agencies with leased vehicles not being driven within the utilization guidelines, may be given a six month probation to come into compliance before the case is referred to the MVRC for review.

(a) The MVRC may decide that an adjustment in the vehicle replacement cycle will allow the program to keep within utilization guidelines.

(b) The MVRC may require the exchange of vehicles between agencies to maximize statewide vehicle utilization.

(c) In the event a vehicle is reassigned due to low utilization, DFO will work with the division or program to accommodate the transportation needs of the employees.

R27-3-14. Daily Rental Requirements.

(1) The Division of Fleet Operations, through the State Motor Pool, offers state-owned vehicles for use on a daily basis for an approved daily rental rate. Drivers of State-owned vehicles offered through the daily pool shall abide by the following:

(a) 24-hour notice shall be given when requesting a daily rental vehicles which include, but are not limited to sedans, 15 passenger vans, sports utility vehicles and wheelchair accessible vehicles.

(b) Authorized drivers shall follow all rules, policies and procedures published by DFO governing the use of State-owned vehicles.

(c) Authorized drivers shall present valid driver license upon pick-up of the vehicle. If the driver is unable to produce a valid driver license, the rental vehicle shall not be released.

(d) Authorized drivers shall verify the condition and acknowledge responsibility for the care of the vehicle prior to rental, by filling out a M-98 form provided by the daily rental personnel.

(e) Conditions of the vehicle shall be inspected upon return of vehicle. Authorized driver's agency may be held responsible for any damages not acknowledged prior to rental.

(f) Authorized drivers shall report correct odometer reading when utilizing a state fueling card for authorized transactions. The agencies of drivers not furnishing mileage or providing incorrect mileage may be assessed a fee.

(g) Agencies of drivers returning vehicles with less than a full tank of fuel may be assessed a fee.

(h) Agencies of drivers shall be assessed a fee for any unused reservation which has not been canceled.

(i) Drivers shall return rental vehicles in good repair. The agencies of drivers of vehicles returned needing excessive cleaning shall be charged a detailing fee.

(j) Authorized drivers needing to keep rental vehicles longer than scheduled shall call to extended the reservations. Drivers keeping vehicles without notifying Reservations Desk personnel shall be assessed a late fee.

(k) The agencies of authorized drivers involved in an accidents while operating a daily rental vehicle shall be responsible to pay the insurance deductible associated with the vehicle.

(1) Advertising or bumpers stickers shall not be placed on State Motor Pool vehicles without prior approval.

(3) State-owned vehicles, from the daily rental motor-pool, may be leased for no-more than 12 consecutive months, after which the leasing agency shall comply with the guidelines set forth in Administrative Rule, R27-4-5 governing the requests for expansion vehicles.

(4) Items left in daily rentals shall be held at the Motor Pool or Mini-pool a minimum of ten days. Items not retrieved shall be turned over to the Surplus Property Program for sale or disposal.

R27-3-15. Vehicle Type.

(1) The Division of Fleet Operations strives to purchase the most fuel efficient and cost effective vehicles. A white compact four-door sedan shall be the standard vehicle. Requests for speciality vehicles may be denied unless there is a specific need.

(a) A SUV may be requested if State business is being conducted in off-road or under developed road conditions. Adverse weather conditions are not considered a specific need.

(b) A seven passenger van may be requested if the driver will be transporting more than three authorized passengers.

(c) A 15 passenger van may be requested if the driver will be transporting more then six authorized passengers.

(d) Cargo vans shall be used to transport cargo only. Passengers shall not be transported in cargo vehicles.

(2) Alternative fuels shall be the primary fuel used when driving a bi-fuel state vehicle. Drivers shall make every effort to use an alternative fuel.

(a) Failure to use alternative fuels when available shall result in removal of vehicle.

R27-3-15. Reimbursement for Use of Personal Vehicle for State Business.

As stated in R25-7-10.

**KEY: state vehicle use
2000**

**53-13-102
63A-9-401(1)(c)(viii)**



**Administrative Services, Fleet
Operations, Surplus Property
R28-1
State Surplus Property Disposal**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23119
FILED: 08/29/2000, 13:27
RECEIVED BY: NL**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment clarifies that donees of surplus property pay a processing fee.

SUMMARY OF THE RULE OR CHANGE: To notify potential donors and donees of a processing fee that will be charged for commuter donations to schools.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-9-401

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: A small processing fee which is approved on a yearly basis through the rate committee.
 - ❖LOCAL GOVERNMENTS: A small processing fee which is approved on a yearly basis through the rate committee.
 - ❖OTHER PERSONS: A small processing fee which is approved on a yearly basis through the rate committee.
- COMPLIANCE COSTS FOR AFFECTED PERSONS: A small processing fee which is approved on a yearly basis through the rate committee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is a small processing fee in place, however information about the fee was not widely know so we have included the information in rule--Raylene Ireland

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

Administrative Services
Fleet Operations, Surplus Property
PO Box 141152
Salt Lake City, UT 84116-1152, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alison Taylor at the above address, by phone at (801) 538-3306, by FAX at (801) 538-1773, or by Internet E-mail at ataylor@fo.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Steve Saltzgiver, Director

R28. Administrative Services, Fleet Operations, Surplus Property.

R28-1. State Surplus Property Disposal.

.....

R28-1-3. Procedures.

A. State-owned personal property shall not be destroyed, sold, transferred, traded-in, traded, discarded, donated or otherwise

disposed of without first submitting a properly completed form SP-1 to and receiving authorization from the USASP.

This rule applies to and includes any residue that may be remaining from agency cannibalization of property.

B. When a department or agency of state government determines that state-owned personal property is in excess to current needs, they will make such declaration using Form SP-1. State-owned personal property shall not be processed by the USASP unless the appropriate form is executed.

C. A standard form SP-3 is required when it is determined that state-owned personal property should be abandoned and destroyed. The SP-3 is generated by the USASP after receiving a form SP-1 and reviewing the property being disposed of by the agency.

D. State-owned information technology equipment may be transferred directly to public institutions, such as schools and libraries by the owning agency. However, a form SP-1 must still be completed and forwarded to the USASP to account for the transfer of the equipment. In ~~such~~all cases, the USASP will~~not~~ assess a processing fee, as defined in R28-7-1, to the donating agency or the donee receiving the property. Similarly, the USASP is authorized to donate computer equipment received as surplus property from agencies to the Utah Correctional Industries (UCI) for refurbishment and upgrade. Subsequent to refurbishing and upgrading, UCI may sale the equipment to public schools. In such cases, the costs associated with refurbishing and upgrading the equipment shall be borne by UCI and subsequent sale to public schools shall be governed by the Department of Corrections.

E. Prior to submitting information technology equipment to Surplus Property , or donating it directly to the public institutions, agencies shall delete all information from all storage devices. Information shall be deleted in such a manner as to not be retrievable by data recovery technologies.

F. Federal surplus property is not available for sale to the general public, on a day-to-day basis. Donation of federal surplus property shall be administered in accordance with the procedures identified in the State Plan of Operation for the Federal Property Assistance Program. Public auctions of federal surplus property are authorized under certain circumstances and conditions. The USASP Manager shall coordinate such auctions when deemed necessary or appropriate. Federal surplus property auctions are conducted locally, but are regulated and accomplished by a representative of the U.S. General Services Administration.

G. The USASP Manager or designee may make an exception to the written authorization requirement identified in paragraph A above. Exceptions must be for good cause and must consider:

1. The cost to the state;
2. The potential liability to the state;
3. The overall best interest of the state.

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R28-1-5. Priorities.

A. Public agencies are given priority for the purchase of state-owned surplus property.

B. Property received by the USASP that is determined to be unique, in short supply or in high demand by public agencies shall be held for a period of 30 days before being offered for sale to the general public.

C. For this rule, the entities listed below, in priority order, are considered to be public agencies:

- 1. State Agencies, including public schools and libraries.
- 2. State Universities, Colleges, and Community Colleges
- 3. Other tax supported educational agencies or political subdivisions in the State of Utah including cities, towns, counties and local law enforcement agencies
- 4. Other tax supported educational entities
- 5. Non-profit health and educational institutions

D. State-owned personal property that is not purchased by or transferred to public agencies during the 30-day hold period may be offered for public sale.

E. The USASP Manager or designee shall make the determination as to whether property is subject to the 30-day hold period. The decision shall consider the following:

- 1. The cost to the state;
- 2. The potential liability to the state;
- 3. The overall best interest of the state.

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R28-1-8. Bad Debt Collection.

A. If a check from the general public, state subdivisions, or other agencies is returned to the USASP for "insufficient funds", the USASP shall initiate formal collection procedures.

B. The USASP shall initiate the following procedures to collect a bad debt:

- 1. The debtor may not make any future purchases from the USASP until the debt is paid in full.
- 2. The USASP shall send a certified letter to the debtor stating that the debtor has 15 days to pay the full amount owed with cash or certified funds, including any and all additional fees associated with the collection process, such as returned check fees.
- 3. The letter shall also state that if the balance is not paid within the 15 day period, the matter will be referred to the Office of State Debt Collection for formal collection proceedings.

C. The USASP [~~Director~~ Manager] or designee may make exceptions to the collection provisions of this rule for good cause. A good cause exception requires a weighing of:

- 1. The cost to the state;
- 2. The potential liability to the state;
- 3. The overall best interest of the state.

R28-1-9. Public Sales of Surplus Property.

A. State-owned surplus property may be purchased at any time by the general public, subject to any 30-day holding period that may be applicable, as described above.

B. At the discretion of the USASP Manager, any state-owned surplus property may be sold to the general public by auction, [~~or~~] sealed bid or consignment. Property to be auctioned may be consigned out to an auction service. If a consignment approach is considered, the USASP Manager must ensure that the auction service is contracted by and authorized as a vendor by the Division of Purchasing.

C. Federal surplus property auctions to the general public may be accomplished on occasions and subject to the limitations as indicated previously.

D. The frequency of public auctions, for either State-owned or federal surplus property will be regulated by current law as

applicable, the volume of items held in inventory at the USASP, and the profitability of conducting auctions versus other approaches to disposing of surplus property.

KEY: state property

~~[June 1,]~~2000

63A-9-801

Notice of Continuation March 19, 1997



Agriculture and Food, Animal Industry

R58-17-15

Aquatic Animal Health Approval

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23109

FILED: 08/24/2000, 13:44

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Make changes to clarify the intent of the rule.

SUMMARY OF THE RULE OR CHANGE: In Subsection R58-17-15(7), changed two inspections at least six months apart to two inspections of the same lot, at least four months apart.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-37-101 and 4-37-503, and Subsection 4-2-2(j)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost to state. This rule applies to aquaculture and fee-fishing facilities. Facilities pay an assessment fee and a registration fee.

❖LOCAL GOVERNMENTS: No cost to local government. This rule applies to aquaculture and fee-fishing facilities. Facilities are charged an assessment fee and a registration fee.

❖OTHER PERSONS: Aquaculture facilities are charged \$150 during application and annually for renewal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A discount fee of \$25 will be allowed if renewal is made before December 31. No late fee will be charged.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact for Aquaculture facilities is the fee charged for application and annual renewal fees. The assessment fee is \$150 for application and renewal.

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

Agriculture and Food
Animal Industry
350 North Redwood Road
PO Box 146500
Salt Lake City, UT 84114-6500, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kent Hauck at the above address, by phone at (801) 538-7025, by FAX at (801) 538-7126, or by Internet E-mail at agmain.khauck@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.
R58-17. Aquaculture and Aquatic Animal Health.
R58-17-15. Aquatic Animal Health Approval.

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- (C) Approval Procedures:
 - (1) Applicable to warm and cold water aquatic animals.
 - (a) To receive initial fish health approval, inspection reports or other evidence of the disease status of an aquaculture facility or public aquaculture facility must be submitted to the appropriate agency. For warm water aquatic animal approval, the "Application for Warm Water Species Fish Health Approval " form must be submitted for initial approval and for renewal pursuant to R58-17-15(B)(6). Initial approval also requires the applicant to include information on origins of the aquatic animals at the facility and their transfer histories. The same application materials shall be required annually for renewal of fish health approval for activities occurring between applications.
 - (b) Inspections are conducted pursuant to UCA amendment 4-37-502 to detect the presence of any prohibited pathogens listed under R58-17-15(D)(2) and (3). Overt disease need not be evident to disqualify a facility. To qualify for initial and renewal of aquatic animal health approval, evidence must be available verifying that any prohibited pathogens listed under R58-17-15(D)(2) and (3) are not present.
 - (c) Once the requirements for initial approval or renewal of approval have been met, the facility shall be added to the fish health approval list of the responsible agency and assigned a fish health approval number for the current year. Fish health approval of each facility shall be reviewed annually for continuance on the lists maintained by the Department and the Division pursuant to R58-17-15(A)(1).
 - (d) The Department will report the confirmed results of annual inspections conducted at aquaculture facilities, fee fishing facilities, and out-of-state sources at each meeting of the Fish Health Policy Board.
 - (e) Public aquaculture facilities and wild brood stocks are included on the fish health approval list maintained by the Division. The Division will report the confirmed results of annual health inspections conducted at public aquaculture facilities, private ponds and wild populations of aquatic animals at each meeting of the Fish Health Policy Board.

- (f) If all aquatic animals are removed from an approved facility for a period of three months or more, or if fish health approval is canceled or denied, then subsequent fish health approval will be granted only after the facility has completed the process for initial approval as outlined under R58-17-15(C).
 - (2) Applicable to cold water aquatic animals:
 - (a) For initial approval of new facilities, two inspections of the same lot, at least [~~six~~four] months apart and negative for any prohibited pathogen pursuant to R58-17-15(D)(2) and (3), are required. The aquatic animals must have been on the facility at least six months prior to the first inspection.
 - (b) For initial approval of existing facilities, health inspection reports for a minimum of the previous two years, and facility disease history reports for up to the previous five years and five-year disease histories for all stocks imported to the facility are required.
 - (c) All lots of aquatic animals on the facility as well as any outside sources of these aquatic animals must be inspected for initial approval and for renewals pursuant to R58-17-15(B)(4).
 - (d) After initial approval, annual inspections shall be required to renew fish health approval. A two-month grace period is granted at the completion of the annual inspection for laboratory testing of samples and reporting of test results. Health inspection reports, the facility disease history for at least the previous year, and disease histories for at least the previous year for all stocks imported to the facility shall be required before each renewal.

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KEY: aquaculture
[~~October 2, 1999~~2000 **4-2-2**
Notice of Continuation June 15, 2000 **4-37**



Agriculture and Food, Animal Industry
R58-18
Elk Farming

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE No.: 23132
FILED: 09/01/2000, 12:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes in these rules are made at the request of the Elk Farm Industry.

SUMMARY OF THE RULE OR CHANGE: Required date change for tattooing calves, number of years of Chronic Wasting Disease (CWD) surveillance changed to three years, format changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No cost to state budget. Changes are made to correct a required date for calf tattooing, required years for CWD surveillance and format changes.

❖LOCAL GOVERNMENTS: No cost to local government. Changes are made to correct a required date for calf tattooing, required years for CWD surveillance and format changes.

❖OTHER PERSONS: The cost to the livestock owner would be the cost established by the veterinarian to obtain a permit or Certificate of Veterinary Inspection.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If livestock comes into the state illegally, there is a fine of \$75 plus \$2 per head.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The cost would be the price established by the veterinarian for the inspection.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Terry Menlove at the above address, by phone at (801) 538-7166, by FAX at (801) 538-7169, or by Internet E-mail at tmenlove.agmain@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

**R58. Agriculture and Food, Animal Industry.
R58-18. Elk Farming.**

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R58-18-9. Identification.

(1) All elk shall be permanently identified with either a tattoo or micro chip.

(2) If the identification method chosen to use is the micro chip, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify chip number. The chip shall be placed in the right ear.

(3) If tattooing is the chosen method of identification, each elk shall bear a tattoo number consisting of the following:

(a) UT (indicating Utah) followed by a number assigned by the department (indicating the facility number of the elk farm) and

(b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

Example:

UTxxx

ID number (001)

(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

(d) Each alphanumeric character must be at least 3/8 inch high.

(e) Each newly purchased elk will not need to be retattooed or chipped if they already have this type of identification.

(f) Any purchased elk not already identified shall be tattooed or chipped within 30 days after arriving on the farm.

(g) All calves must be tattooed within 15 days after weaning or in no case later than ~~September 15th~~ January 1st.

(4) In addition to one of the two above mentioned identification methods, each elk shall be identified by the official USDA ear tag or other ear tag approved by the director.

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R58-18-11. Health Rules.

(1) Prior to the importation of elk, whether by live animals, gametes, eggs, sperm or other genetic material into the State of Utah, the importing party must obtain an entry permit from the Utah State Veterinarians office. (801-538-7164)

(a) An entry permit number shall be issued only if the destination is licensed as an elk farm by the Utah Department of Agriculture and Food.

(b) The entry permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the Utah Department of Agriculture and Food permit desk at 801-538-7164.

(2) All elk imported into Utah must be examined by an accredited veterinarian prior to importation and must be accompanied by a valid certificate of veterinary inspection, health certificate, certifying a disease free status.

(a) Minimum specific disease testing results or health statements must be included on the certificate of veterinary inspection.

(b) A negative tuberculosis test must be completed within 60 days prior to entry into the state. A retest is also optional at the discretion of the state veterinarian.

(c) If animals do not originate from a tuberculosis accredited, qualified or monitored herd, they may be imported only if accompanied by a certificate stating that such domestic cervidae have been classified negative to two official tuberculosis tests that were conducted not less than 90 days apart, that the second test was conducted within 60 days prior to the date of movement. The test eligible age is six months or older, or less than six months of age if not accompanied by a negative testing dam.

(d) All elk being imported shall test negative for brucellosis if six months of age or older, by at least two types of official USDA brucellosis tests, one of which shall be the rivanol test.

(e) The certificate of veterinary inspection must also include the following signed statement: "To the best of my knowledge the elk listed herein are not infected with Johne's Disease

(Paratuberculosis), Chronic Wasting Disease or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

(f) The certificate of veterinary inspection shall also contain the name and address of the shipper and receiver, the number, sex, age and any individual identification on each animal.

(3) Additional disease testing may be required at the discretion of the state veterinarian prior to importation or when there is reason to believe other disease(s), or parasites are present, or that some other health concerns are present.

(4) Imported or existing elk may be required to be quarantined at an elk farm if the state veterinarian determines the need for and the length of such a quarantine.

(5) Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis Eradication, Uniform Methods and Rules", the May 6, 1992 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the standards for tuberculosis and brucellosis eradication in domestic cervidae. Copies of the methods and rules are on file and available for public inspection at the Division of Animal Industry, Department of Agriculture and Food offices located at 350 North Redwood Road, Salt Lake City, Utah.

(6) Treatment of all elk for internal and external parasites is required within 30 days prior to entry.

(7) All elk imported into Utah must originate from a state or province, which requires that all suspected or confirmed cases of Chronic Wasting Disease, be reported to the State Veterinarian or regulatory authority. The state or province of origin must have the authority to quarantine source herds and herds affected with or exposed to CWD.

(8) Elk imported into Utah shall only originate from states, which have implemented a Program for Surveillance, Control, and Eradication of CWD in Domestic Elk. All elk imported to Utah must originate from herds that are participating in a CWD surveillance program. Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place. The number of years under a recognized CWD surveillance program, completed by the herd of origin, shall be stated on the Certificate of Veterinary Inspection. The number of years of CWD surveillance completed by the herd of origin shall be at least equal to the number of years of CWD surveillance completed by the destination herd, until such time as both herds have been under surveillance for at least ~~five (5)~~ three years. Beginning July 1, 2005, only elk from herds under surveillance for at least ~~five (5)~~ three years will qualify, regarding CWD, for entrance into Utah.

(9) No elk originating from a CWD affected herd, trace back herd/ source herd, trace forward herd, or adjacent herd, may be imported to Utah.

(10) Elk semen, eggs, or gametes, require a Certificate of Veterinary Inspection verifying the individual source animal has been tested for genetic purity for Rocky Mountain Elk genes and certifying that it has never resided on a premise where Chronic Wasting Disease has been identified or traced. An import Entry Permit obtained by the issuing veterinarian must be listed on the Certificate of Veterinary Inspection. Permits may be obtained by

calling 801-538-7164 during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

R58-18-12. Chronic Wasting Disease Surveillance.

(1) The owner, veterinarian, or inspector of any elk which is suspected or confirmed to be affected with Chronic Wasting Disease (CWD) in Utah is required to report that finding to the State Veterinarian.

(2) Each elk farm, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of any elk over 16 months of age that dies or is otherwise slaughtered or destroyed, for testing for Chronic Wasting Disease (CWD) by an official test. The samples shall be collected by an accredited veterinarian, or an approved laboratory, or person trained and approved by the state veterinarian.

(3) Each hunting park, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) of all elk over 16 months of age that die; and the brain stem from 50% of all elk from each herd of origin that are otherwise slaughtered, killed, or destroyed, for testing for Chronic Wasting Disease with an official test. The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian.

(4) The CWD surveillance samples from elk residing on licensed elk farms and elk hunting parks shall be collected and preserved in formalin within 48 hours following the death of the animal, and submitted within 7 days, to a laboratory approved by the State Veterinarian. Training of approved personnel shall include collection, handling, shipping, and identification of specimens for submission.

(5) Laboratory fees and expenses incurred for collection and shipping of samples shall be the responsibility of the participating elk farm or hunting park.

(6) The disposition of CWD affected herds in Utah shall be determined by the State Veterinarian.

KEY: inspections

[August 2, 2000

4-39-106



Agriculture and Food, Plant Industry

R68-20

Utah Organic Standards

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23122

FILED: 08/30/2000, 15:12

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Establishes the standards for the production of organic products.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the standards for the production, handling, labeling and certification for the production of organic products within the State of Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 4-3-2, 4-4-2, 4-9-2, 4-11-3, and 4-12-3; and Subsections 4-2-2(1)(j), 4-5-17(1), 4-14-6(5), 4-16-3, 4-32-7(7)(a)(ii), and 4-37-109(2)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There will be no cost to state budget. The cost will be to the producers of the organic products.

❖LOCAL GOVERNMENTS: There will be no cost to local government. The cost will be to the producers of the organic products.

❖OTHER PERSONS: There will be a certification fee of \$100 to the organic producers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be a penalty charge to the producers of up to \$5,000 for violations to this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a certification fee in accordance with the fee schedule in the annual appropriations act passed by the legislature and signed by the governor. There is a penalty fee for violations and a possible hearing for continuing violations.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard Wilson at the above address, by phone at (801) 538-7180, by FAX at (801) 538-7126, or by Internet E-mail at agmain.dwilson@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000; OR ATTENDING A PUBLIC HEARING SCHEDULED FOR 10/05/2000, 10:00 a.m., 350 North Redwood Road, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Cary G. Peterson, Commissioner

R68. Agriculture and Food, Plant Industry.

R68-20. Utah Organic Standards.

R68-20-1. Authority.

Promulgated under authority of Sections 4-2-2(1)(j), 4-3-2, 4-4-2, 4-5-17(1), 4-9-2, 4-11-3, 4-12-3, 4-14-6(5), 4-16-3, 4-32-7(7)(a)(ii), 4-37-109(2).

R68-20-2. Definitions and Terms.

A. For the purpose of this rule, words in the singular form shall be deemed to impart the plural and vice versa, as the case may demand.

1. "Accreditation" means the procedure by which USDA gives a formal recognition that a body or person is competent to carry out specific tasks.

2. "Accredited laboratory" means a laboratory that has met and continues to meet the requirements specified in the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 138) for pesticide residue analysis of fresh fruit and vegetables and/or pesticide residue analysis of products derived from livestock and fowl.

3. "Act" means the Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 et seq.).

4. "Action level" means the concentration of poisonous or deleterious substances at or above which the Food and Drug Administration will take legal action against a product to remove it from the market. Action levels are based on un-avoid ability of the poisonous or deleterious substances and do not represent permissible levels of contamination where it is avoidable.

5. "Active ingredient in pesticide formulations" means any substance (or group of structurally similar substances) as specified by the EPA in 40 CFR 152.3(b), that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant, within the meaning of section 2(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136(a)).

6. "Administrator" means the Administrator for the Agricultural Marketing Service (AMS), United States Department of Agriculture, or the representative to whom authority has been delegated to act in the stead of the Administrator.

7. "Agricultural inputs" means all substances or materials used in the production or handling of organic agricultural products.

8. "Agricultural Marketing Service (AMS)" means the Agricultural Marketing Service of the United States Department of Agriculture.

9. "Agricultural product" means any product or commodity of agriculture, raw or processed, including any commodity or product derived from livestock, that is marketed for human or livestock use or consumption.

10. "Allowed (permitted)" means materials and/or practices which may be used for the production of organic crops, livestock, and processed products with no restrictions.

11. "Allowed synthetic" means a substance that is included on the approved list of synthetic substances permitted for use in organic production, processing, or handling.

12. "Annual crop" means a crop produced by a plant whose entire life cycle is completed in a single growing season.

13. "Appeal" means the process whereby an operator can request a decision taken by a certification agent be reconsidered.

14. "Area of operations" means the types of operations: crops, livestock, wild crop harvesting, handling, or any combination thereof, that a certifying agent may be accredited to certify.

15. "Audit" means a systematic and functionally independent examination to determine whether activities and related results comply with planned objectives.

16. "Audit trail" means documentation that is sufficient to determine the source, transfer of ownership, and transportation of

any agricultural product labeled as "100 percent organic," the organic ingredients of any agricultural product labeled as "organic" or "made with organic (specified ingredients)" or the organic ingredients of any agricultural product containing less than 50 percent organic ingredients identified as organic in an ingredients statement.

17. "Biennial crop" means a crop produced by plants which normally require two years to reach maturity, produce harvested portions, and then die.

18. "Biodegradable" means subject to biological decomposition into simpler biochemical or chemical components.

19. "Biologic" means all viruses, serums, toxins, and analogous products of natural or synthetic origin, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment or prevention of diseases of animals.

20. "Breeder stock" means female livestock whose offspring may be incorporated into an organic operation at the time of their birth.

21. "Buffer zone (area)" means land that adjoins an organically managed area which, as described in the producer's Organic Plan, serves to protect the managed area from contamination by prohibited materials. Buffer zones are managed under specific requirements and must be a minimum of twenty five feet, or other means as approved. Practices that may be used in buffer zones to prevent contamination of the organically-managed area may include establishment of physical barriers, diversion of runoff, notification of neighbors, posting of borders, or other appropriate means.

22. "Bulk" means the presentation to consumers at retail sale of an agricultural product in unpackaged, loose form, enabling the consumer to determine the individual pieces, amount, or volume of the product purchased.

23. "Certification or certified" means a determination made by a certifying agent that a farm, wild crop harvesting, or handling operation is in compliance with this rule, which is documented by a certificate that identifies the entity certified, the effective date of certification, and the types of agricultural products for which certification is granted.

24. "Certified operation" means a processing, manufacturing, livestock housing or other site or structure maintained or operated to grow, raise or handle organically produced agricultural products that is part of a certified organic farm, a certified organic wild crop harvesting operation, or a certified organic handling operation.

25. "Certifying agent's operation" means all sites, facilities, personnel and records used by a certifying agent to conduct certification activities under this rule.

26. "Certification agent" means an individual who is responsible for verifying that a product sold or labeled as "organic" or "made with organic ingredients" is produced, processed, handled, and/or imported according to organic standards.

27. "Claims" means oral, written, implied, or symbolic representations, statements, or advertising or other forms of communication presented to the public or buyers of agricultural products that relate to the organic certification process or the term, "100 percent organic," "organic," or "made with organic (specified ingredients)," or, in the case of agricultural products containing less

than 50 percent organic ingredients, the term, "organic," on the ingredients panel.

28. "Commercially unavailable" means the documented inability to obtain a production input or ingredient in an appropriate form, quality, quantity, or variety to be feasibly and economically used to fulfill an essential function in a system of organic farming, processing, and/or handling.

29. "Commingling" means physical contact between unpackaged organically produced and non-organically produced agricultural products during production, transportation, storage or handling, other than during the manufacture of a multi-ingredient product containing both types of ingredients.

30. "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food, or the Commissioner's representative.

31. "Complaint" means an objection by an operator to the policies, procedures or decisions of a certification agent, other than an appeal; an objection by a certification agent to the policies, procedures or decisions of an accreditation body; an objection by anyone to a product or service provided by a certified operator.

32. "Compost" means the product of a carefully managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil. Compost used in an organic operation is produced in compliance with the Natural Resource Conservation Service's practice standard for a composting facility (Code 317) and utilizes methods to raise the temperature of the raw materials to the levels needed to stabilize nutrients and kill pathogens.

33. "Control" means any method that reduces or limits damage by, or populations of, pests, weeds or diseases to levels that do not significantly reduce productivity.

34. "Co-processor" means a processor who does not take legal title to the ingredients or final products which are manufactured for another party, and whose processing activities are covered by the organic certification of the other party.

35. "Critical control point" means any point, step or procedure in a certified production or handling operation where loss of control may result in a loss of an organic product's integrity, such as the commingling of organic products with non-organic products or contact of organic products with prohibited substances.

36. "Crop" means a plant or part of a plant intended to be marketed or consumed as an agricultural product.

37. "Crop residues" means the plant parts remaining in a field after the harvest of a crop, which include stalks, stems, leaves, roots and weeds.

38. "Crop rotation" means the practice of alternating the species or families of annual and/or biennial crops grown on a specific field in a planned pattern or sequence so as to break weed, pest, and disease cycles and to improve soil fertility and organic matter content.

39. "Crop year" means the normal growing season for a given crop.

40. "Cultivation" means digging up or cutting the soil to prepare a seed bed, control weeds, aerate the soil or work organic matter, crop residues or fertilizers into the soil.

41. "Cultural practices" means management methods which are used to enhance crop or livestock health and/or prevent weed, pest or disease problems without the use of external inputs, including, but not limited to: selection of appropriate varieties and

breeds of livestock, selection of appropriate planting sites, control of timing and density of plantings, irrigation and extension of the growing season with greenhouses, cold frames or wind breaks; construction of livestock facilities designed to optimize animal health depending on species or type, management of stocking rates, etc.

42. "Detectable residue" means the amount or presence of chemical residue or sample component that can be reliably observed or found in the sample matrix by the current approved analytical methodology.

43. "Disease vectors" means plants or animals that harbor or transmit organisms which may attack crops or livestock.

44. "Distributor" means a handler that purchases products under its own name, usually from a shipper, processor, or another distributor. Distributors may or may not take physical possession of the merchandise. A distributor is required to be certified if that person both takes title to the organic products and substantially transforms, processes, repackages or re-labels these products.

45. "Drift" means the physical movement of pesticides, fertilizers, genetically engineered organisms, or other prohibited materials onto a certified organic field, farm, or facility.

46. "Emergency pest or disease treatment program" means a mandatory program authorized by a state, federal or local agency for the purpose of controlling or eradicating a pest or disease.

47. "Employee" means any person who will be involved in certification decisions.

48. "Estimated national mean" means the mean level of detected pesticide residues as described in certain pesticide/commodity pairs or combinations established by USDA's Pesticide Data Program.

49. "Excluded methods" means methods used to genetically modify organisms or influence their growth and development by means that are not possible under natural conditions or processes and are not considered compatible with organic production. Such methods would include recombinant DNA, cell fusion, and micro- and macro encapsulation. Such methods would not include the use of traditional breeding, conjugation, fermentation, hybridization, in vitro fertilization, or tissue culture.

50. "Feed" means edible material consumed by animals that contribute energy, nutrients or both to the diet. Feed may be concentrates (feeds that are low in fiber and high in total digestible nutrients, e.g., grains) or roughage (hay, silage, fodder). The term feed encompasses all agricultural products, including pasture, ingested by livestock for nutritional purposes but, for these purposes, excludes mineral and vitamin supplements and feed additives.

51. "Feed additive" means a substance or combination of substances added to feed in micro quantities to fulfill a specific nutritional need, i.e., nutrients in the form of amino acids, vitamins, and minerals.

52. "Feed supplement" means an article for the diet of an animal which contains one or more additives and is intended to be:

- (a) Further diluted and mixed to produce a complete feed; or
- (b) Fed undiluted as a supplement to other feeds; or
- (c) Offered free choice with other parts or the ration separately available.

A feed additive supplement is safe for the animal and will not produce unsafe residues in the edible products from food-producing animals if fed according to directions.

53. "Fertilizer" means any substance containing one or more recognized plant nutrient(s) which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

54. "Field" means an area of land identified as a discrete and distinguishable unit within a farm operation.

55. "Foliar nutrient" means any liquid substance applied directly to the foliage of a growing plant for the purpose of delivering essential nutrient(s) in an immediately available form.

56. "Food (and food products)" means material, usually of plant or animal origin, containing or consisting of essential body nutrients, as carbohydrates, fats, proteins, vitamins, and/or minerals, that is taken in and assimilated by an organism to maintain life and growth. Food products include all agricultural and horticultural products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, dairy products and aquaculture products that are used as food.

57. "Food additive," as defined by FDA, means any substance which becomes a component of or affects the characteristics of a feed or food if such substance is not generally recognized among experts qualified by scientific training and experience to evaluate its safety as having been adequately shown through scientific procedures to be safe under the conditions of its intended use. Excepted are substances having "prior sanction" and pesticide chemicals under certain conditions.

58. "Forage" means feed, including pasture, often consisting of coarsely chopped leaves and stalks of grasses and legumes.

59. "Formulated product" means a commercial product composed of more than one substance.

60. "Genetically engineered/modified organisms (GEO/GMOs)" means organisms made with techniques that alter the molecular or cellular biology of an organism by means that are not possible under natural conditions or processes. Genetic engineering includes recombinant DNA, cell fusion, micro- and macro-encapsulation, gene deletion and doubling, introducing a foreign gene, and changing the positions of genes. It shall not include breeding, conjugation, fermentation, hybridization, in-vitro fertilization, and tissue culture.

61. "Handle" means to sell, process, package, or store agricultural products.

62. "Handler" means any person engaged in the business of handling agricultural products. This includes producers who handle crops or livestock of their own production. The term handler shall not apply to final retailers that are exempt under R68-20-6(A)(6)(b).

63. "Handling operation" means any operation or portion of an operation that receives or otherwise acquires agricultural products and processes, packages, or stores such products.

64. "Immediate family" means the spouse, minor children, or blood relatives who reside in the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent. For the purpose of this rule, the interest of a spouse, minor child, or blood relative who is a resident of the immediate household of a certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent shall be considered to be an interest of the certifying agent or an employee, inspector, contractor, or other personnel of the certifying agent.

65. "Incidental additive" means an additive present in agricultural products at an insignificant level that does not have any

technical or functional effect in the product and is therefore not an active ingredient.

66. "Inert ingredient" means any substance (or group of substances with similar chemical structures if designated by the Environmental Protection Agency) other than an active ingredient which is intentionally included in any pesticide product used in organic crop or livestock production and handling (40 CFR 152.3(m)).

67. "Ingredient" means any substance used in the preparation of a food or fiber product that is still present in the final product as used or consumed, even if in a modified form.

68. "Inspection (organic)" means the on-site examination of production, handling and management systems to assess if performance of the operation is in compliance with prescribed organic standards.

69. "Inspector" means a person who performs inspections on behalf of a certification agent.

70. "Internal review" means an assessment of the objectives and performance of a certification or accreditation program that is undertaken by the program itself.

71. "Ionizing radiation (irradiation)" means high energy emissions from radionuclides, (such as cobalt-60 or cesium-137), capable of altering a food's molecular structure for the purpose of controlling microbial contaminants, pathogens, parasites and pests in food, preserving a food, or inhibiting physiological processes such as sprouting or ripening.

72. "Label" means any display of written, printed, or graphic material on the immediate container of an agricultural product, or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product.

73. "Labeling" means any written, printed or graphic representation on the label of a product, accompanies the product, or is displayed near the product at the point of sale, for the purpose of promoting its sale or disposal.

74. "License" means an agreement or contract that grants a certified operator the right to use a certifi cate or certification mark in accordance with organic standards and certification requirements.

75. "Livestock" means any cattle, sheep, goats, swine, poultry, ratite, equine animals, wild or domesticated game including Cervidae and bison, fish or other aquatic animals, rabbits, bees, or other cultivated animals raised for food, fiber or the production of food, fiber, or other agricultural products.

76. "Lot" means any number of containers which contain an agricultural product of the same kind located in the same conveyance, warehouse, or packing house and which are available for inspection at the same time.

77. "Manure" means feces, urine, bedding, and other waste incidental to an animal. It does not include sewage sludge or human waste products.

78. "Market information" means any written, printed, audio-visual or graphic information, including advertising, pamphlets, flyers, catalogues, posters and signs, that are used to assist in the sale or promotion of a product.

79. "Mulch" means any material, such as wood chips, leaves, straw, paper or plastic that serves to suppress weed growth, moderate soil temperature or conserve soil moisture.

80. "Municipal sludge (bio-solids)" means semi-solid residuals produced by municipal wastewater treatment processes.

81. "National List" means a list of allowed and prohibited substances as provided for in section 2118 of the OFPA (7 U.S.C. 6517).

82. "National organic program (NOP)" means the program authorized by the Organic Foods Production Act for the purpose of implementing its provisions.

83. "National Organic Standards Board (NOSB)" means a board established by the USDA Secretary under 7 U.S.C. 6518 to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of the National Organic Program.

84. "Natural resources of the operation" means the physical, hydrological, and biological features of a production operation, including soil, water, wetlands, woodlands, and wildlife.

85. "Non-agricultural ingredient" means a substance that is not a product of agriculture, such as a mineral or a bacterial culture, that is used as an ingredient in an agricultural product. For the purposes of this rule, a non-agricultural ingredient also includes any substance, such as gums, citric acid or pectin, that is extracted, isolated from, or is a fraction of an agricultural product, so that the identity of the agricultural product is unrecognizable in the extract, isolate or fraction.

86. "Non-retail container" means any container used for shipping or storage of an agricultural product that is not used in the retail display or sale of the product.

87. "Non-synthetic (natural)" means a substance that is derived from mineral, plant or animal matter and does not undergo a synthetic process.

88. "Non-toxic" means not known to cause adverse physiological effects in animals, plants, humans or the environment.

89. "Organic" means a labeling term that refers to an agricultural product produced in accordance with this rule.

90. "Organic matter" means the remains, residues or waste products of any living organism.

91. "Organic plan" means a written plan for management of an organic crop, livestock, wild harvesting, processing, handling or grower group operation which specifies the organic management system used by the operation in order to comply with organic standards and which has been agreed upon by both the operator and the certification agent.

92. "Package" means a container or wrapping that bears a label and which encloses an agricultural product, except for agricultural products in bulk containers, shipping containers, or shipping cartons.

93. "Perennial crop" means any crop, other than a biennial crop, that can be harvested from the same planting for more than one crop year, or that requires at least one year after planting before harvest.

94. "Person" means an individual, partnership, association, corporation, or an organized group of persons whether incorporated or not, cooperative, or other entity.

95. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

96. "Planting stock" means any plant or plant tissue, including rhizomes, shoots, leaf or stem cuttings, roots, crowns, or tubers used in plant production or propagation.

97. "Practice standard" means the guidelines and requirements through which a production or handling operation implements a required component of its production or handling organic system plan. A practice standard integrates a series of allowed and prohibited actions, materials, and conditions to establish a minimum level performance for planning, conducting, and maintaining a function, such as livestock health care or facility pest management, essential to an organic operation.

98. "Private entity" means any domestic or foreign non-governmental for-profit or not-for-profit organization providing certification services.

99. "Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, slaughtering, eviscerating, preserving, dehydrating, freezing, dyeing, sewing, or otherwise manufacturing, including packaging, canning, jarring, or otherwise enclosing in a container other than normal post harvest packing of crops performed by producers.

100. "Producer" means a person or organization who engages in the business of growing or producing organic food, feed, fiber crops, or livestock.

101. "Production lot number/identifier" means identification of a product based on the production sequence of the product showing the date, time, and place of production; used for quality control purposes.

102. "Prohibited" means a substance or practice which is not allowed, or not provided for in this rule, to be used in organic production, processing or handling.

103. "Reciprocity (organic)" means mutual or cooperative recognition between organic certification agents based on equivalent standards and verified competency assessment or accreditation.

104. "Records" means any information in written, visual, or electronic form that documents the activities of producers, processors, handlers, inspectors, and certification agents. Such records can be used to verify compliance with organic standards.

105. "Residue" means that portion of a pesticide or other chemical substance that remains on a plant or the edible portion of a plant after evaporation of water, metabolization, proteolysis, hydrolysis, or other chemical reaction or reduction has occurred.

106. "Residue testing" means an official or validated analytical procedure that detects, identifies, and measures the presence of chemical substances, their metabolites, or degradation products in or on raw or processed agricultural products.

107. "Responsibly connected" means any person who is a partner, officer, director, holder, manager, or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification or accreditation.

108. "Retail" means to sell directly to the ultimate consumer.

109. "Revocation of accreditation" means an action taken by an accreditation body that results in the loss of authorization of a certification agent to carry out certification activities.

110. "Revocation of certification" means an action taken by a certification agent that results in the loss of authorization of a farm, livestock, wild crop harvesting, or handling operation to market its products as organic or made with organic ingredients.

111. "Routine use" means regularly scheduled or periodic administration of substances or management practices without documentation of specific need.

112. "Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to: domestic seepage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, or grit and screening's generated during preliminary treatment of domestic sewage in a treatment works.

113. "Slaughter stock" means any animal that is intended to be slaughtered for consumption by humans or animals.

114. "Soil and water quality" means observable indicators of the physical, chemical, or biological condition of soil and water, including the presence of environmental contaminants.

115. "Split operation" means an operation that produces or handles non-organic agricultural products in addition to agricultural products produced organically.

116. "Subtherapeutic use" means administration of an animal drug or a veterinary drug at levels that are below the levels used to treat clinically sick animals, for the purpose of preventing disease, increasing weight gain, or improving feed efficiency.

117. "Suspension of certification" means an action taken by a certification agent that results in the temporary loss of ability of a farm, livestock, wild crop harvesting, or handling operation, or a portion of such operation, to market its products as organic or made with organic ingredients.

118. "Synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

119. "Synthetic volatile solvent" means a synthetic substance used as a solvent, which evaporates readily, such as hexane or isopropyl alcohol.

120. "System of organic production and handling" means a system designed to produce agricultural products by the use of methods and substances that maintain the integrity of organic agricultural products until they reach the consumer. This is accomplished by using, where possible, cultural, biological and mechanical methods, as opposed to using substances, to fulfill any specific function within the system so as to: maintain long-term soil fertility; increase soil biological activity; ensure effective pest management; recycle wastes to return nutrients to the land; provide attentive care for farm animals; and handle the agricultural products without the use of extraneous synthetic additives or processing in accordance to this rule.

121. "Tolerance" means the maximum legal level of a pesticide residue in or on a raw or processed agricultural commodity as set by the Environmental Protection Agency under FFDCIA, Section 408.

122. "Transition period" means the time between the start of organic management and certification as organic of the crop or livestock production system or site.

123. "Transitional product" means a product from an operation or portion thereof which has completed one or more years of the transition period toward becoming a certified organic operation and is under the supervision of a certification agent.

124. "Transplant" means a seedling or cutting raised to be replanted in another situation in order to raise an agricultural product.

125. "Treated (seeds and nursery stock)" means a seed, plant propagation material or other material purchased for use as a production input in an organic farming or handling operation that has been treated or combined with a synthetic pesticidal substance (that does not appear on the National List) prior to having been purchased.

126. "Utah Department of Agriculture and Food Organic Seal" means the seal to be displayed on packaging of certified organic foods and food products intended for retail sale, indicating compliance with provisions of this rule.

127. "Unavoidable residual environmental contamination (UREC)" means background levels of naturally occurring or synthetic chemicals that are present in the soil or present in organically produced agricultural products that are below established tolerances.

128. "Untreated (seeds and nursery stock)" means seeds, planting stock, or transplants to which no prohibited materials have been applied.

129. "Wild crop" means any plant or portion of a plant that is collected or harvested from an area of land that is not maintained under cultivation or other agricultural management.

R68-20-3. Applicability.

(A) What has to be certified.

(1) Except for operations exempt or excluded in R68-20-3(B) and R68-20-3(C) of this chapter, each production or handling operation or specified portion of a production or handling operation that produces or handles crops, livestock, livestock products, or other agricultural products that are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)" shall be certified according to the provisions of the Utah Organic Standards rule.

(2) Any production or handling operation that has been certified by a certifying agent on the date that the certifying agent first receives its accreditation under this rule shall be considered certified to the standards of this rule until the operation's anniversary date of certification. Such recognition shall only be available to those operations certified by a certifying agent that receive their USDA accreditation within 18 months from the date of publication of the final USDA rule.

(B) Exemptions from certification.

(1) A handling operation or portion of a handling operation that handles agricultural products that contain less than 50 percent organic ingredients by total weight of the finished product (excluding water and salt) is exempt from the requirements in this rule, except:

(a) The provisions for prevention of contact of organic products with prohibited substances set forth in R68-20-6(E) with respect to any organically produced ingredients used in an agricultural product;

(b) The labeling provisions of R68-20-6(F)(10)(b); and

(c) The record keeping provisions in R68-20-3(D).

(2) A handling operation or portion of a handling operation that handles agricultural products that contain at least 50 percent organic ingredients by total weight of the finished product (excluding water and salt) that chooses to not use the word,

"organic," on any panel other than the information panel is exempt from the requirements in this rule, except:

(a) The provisions for prevention of contact of organic products with prohibited substances set forth in R68-20-4, R68-20-5 and R68-20-6(E) with respect to any organically produced ingredients used in an agricultural product;

(b) The labeling provisions of R68-20-6(F)(10)(b); and

(c) The record keeping provisions in R68-20-3(D).

(C) Exclusions from certification.

(1) A handling operation or portion of a handling operation is excluded from the requirements of this rule, except for the requirements for the prevention of commingling and contact with prohibited substances as set forth in R68-20-6(E) with respect to any organically produced products if such operation or portion of the operation only sells organic agricultural products labeled as "100 percent organic," "organic," or "made with organic (specified ingredients)" that:

(a) Are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and

(b) Remain in the same package or container and are not otherwise processed while in the control of the handling operation.

(2) A handling operation that is a retail food establishment or portion of a retail food establishment that processes or prepares, on the premises of the retail food establishment, raw and ready-to-eat food from agricultural products that are previously labeled as "100 percent organic," "organic," or "made with organic (specified ingredients)" is excluded from the requirements in this rule, except:

(a) The requirements for the prevention of contact with prohibited substances as set forth in R68-20-6(E);

(b) The labeling provisions of R68-20-6(F)(10)(b).

(D) Records to be maintained by exempt operations.

(1) Any handling operation exempt from certification pursuant to R68-20-3 (B)(1) or (B)(2) shall maintain records sufficient to:

(a) Prove that ingredients identified as organic were organically produced and handled; and

(b) Verify quantities produced from such ingredients.

(2) Records shall be maintained for no less than 3 years beyond their creation and the operations shall allow representatives of the secretary and the applicable state program's governing state official access to these records for inspection and copying during normal business hours to determine compliance with the applicable regulations set forth in this rule.

(E) Use of the term, "organic." Any agricultural product that is sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)" shall be:

(1) Produced in accordance with the requirements specified in R68-20-3(B), R68-20-4(C) through (H), R68-20-5(B) through (K), and all other applicable requirements of this rule;

(2) Handled in accordance with the requirements specified in R68-20-3(B) of this chapter, R68-20-6(C) through (E), and all other applicable requirements of this rule; and

(3) Produced and handled in compliance with the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.), concerning meat, poultry, and egg products; the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and any other applicable Federal statute and its implementing regulations.

(F) Record keeping by certified operations.

(1) A certified operation shall maintain records concerning the production, harvesting, and handling of agricultural products that are or that are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)."

(2) Such records shall:

(a) Be adapted to the particular business that the certified operation is conducting;

(b) Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;

(c) Be maintained for not less than 5 years beyond their creation; and

(d) Be sufficient to demonstrate compliance with this rule.

(3) The certified operation shall make such records available for inspection and copying during normal business hours by the Commissioner, his designee, or the certifying agent.

(G) Foreign applicants.

This rule shall apply equally to domestic and foreign applicants for accreditation, accredited certifying agents, domestic and foreign applicants for certification as organic production or handling operations, and certified organic production and handling operations unless otherwise specified.

R68-20-4. Crop Production Standards.Organic Crop Production and Handling Requirements

(A) General. The producer or handler of a production or handling operation wishing to sell, label, or represent agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients)" shall comply with the applicable regulations of this rule. Practices implemented in accordance with this rule shall maintain or improve the natural resources of the operation, including soil and water quality.

(B) Organic production and handling system plan.

(1) The producer or handler of a production or handling operation, except as exempt or excluded under R68-20-3(B), wishing to sell, label, or represent agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients)" shall develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan shall meet the requirements set forth in this rule to establish a system of organic production or handling.

(2) An organic production or handling system plan shall include:

(a) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;

(b) A list of each substance to be used as a production or handling input, indicating its composition, source, and location(s) where it will be used;

(c) A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented;

(d) A description of the record-keeping system implemented to comply with the requirements established in this rule;

(e) A description of practices and procedures to prevent commingling of organic and non-organic products and to prevent contact of organic production and handling operations and products with prohibited substances; and

(f) Additional information deemed necessary by the certifying agent to evaluate compliance with the regulations.

(C) Land requirements. Any field or farm parcel from which harvested crops are intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)" shall:

(1) Have been managed in accordance with the requirements of this rule;

(2) Have had no prohibited substances, as listed in this rule, applied to it for a period of 3 years immediately preceding harvest of the crop; and

(3) Have distinct, defined boundaries and buffer zones such as runoff diversions to prevent the unintended application of a prohibited substance to the crop or contact with a prohibited substance applied to adjoining land that is not under organic management.

(D) Soil fertility and crop nutrient management practice standard.

(1) The producer shall select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion.

(2) The producer shall budget and supply crop nutrients by properly utilizing manure or other animal and plant materials, mined mineral substances, and substances approved in this rule.

(3) The producer shall manage animal and plant waste materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances. Animal and plant waste materials include:

(a) Raw animal manure, which shall be composted unless it is:

(i) Applied to land used for a crop not intended for human consumption;

(ii) Incorporated into the soil not less than 120 days prior to the harvest of a product whose edible portion has direct contact with the soil surface or soil particles; or

(iii) Incorporated into the soil not less than 90 days prior to the harvest of a product whose edible portion does not have direct contact with the soil surface or soil particles;

(b) Other uncomposted plant or animal wastes, such as aged, fully decomposed animal manure;

(c) A composted product produced in a facility in compliance with the Natural Resources Conservation Service's practice standard for a composting facility (Code 317); and

(d) A composted or uncomposted plant or animal waste material that has been chemically altered by a manufacturing process, provided that the material is included on the National List of Synthetic Substances allowed for use in organic crop production established in this rule.

(4) In addition to crop rotations and plant and animal waste materials, a producer may supply soil and crop nutrients by applying:

(a) A mined substance of low solubility;

(b) A mined substance of high solubility, when justified by soil or crop tissue analysis;

(c) Ash obtained from the burning of a plant or animal material, except as prohibited in R68-20-7(D)(1) and (5)(c), provided that the material burned has not been treated or combined with a prohibited substance or the ash is not included on the National List of nonsynthetic substances prohibited for use in organic crop production; and

(d) A crop nutrient supplement included on the National List of Synthetic Substances allowed for use in organic production, when justified by soil or crop tissue analysis.

(5) The producer shall not use:

(a) Any fertilizer or commercially blended fertilizer or composted product that contains a synthetic substance not included on the National List of Synthetic Substances allowed for use in organic production;

(b) Sewage sludge (bio-solids);

(c) Scientifically engineered/modified seed varieties or planting stock;

(d) Irradiation;

(e) Burning as a means of disposal for crop residues produced on the operation, except that pruning's from perennial crops may be burned to suppress the spread of disease.

(E) Seeds and planting stock practice standard.

(1) The producer shall use organically grown seeds, annual seedlings, and planting stock, except that:

(a) Non-organically produced untreated seeds and planting stock may be used to produce an organic crop when an equivalent organically produced variety is not commercially available;

(b) Non-organically produced seeds and planting stock that have been treated with a substance included on the National List of Synthetic Substances allowed for use in organic crop production may be used to produce an organic crop when an equivalent organically produced or untreated variety is not commercially available;

(c) Non-organically produced annual seedlings may be used to produce an organic crop when a temporary variance has been granted in accordance with this rule;

(d) Non-organically produced planting stock to be used to produce a perennial crop may be sold, labeled, or represented as organically produced only after the planting stock has been maintained under a system of organic management for a period of no less than 1 year; and

(e) Seeds, annual seedlings, and planting stock treated with prohibited substances may be used to produce an organic crop when the application of the materials is a requirement of Federal or State phytosanitary regulations.

(f) The producer of an organic operation shall not use seeds or planting stock produced with excluded methods.

(F) Crop rotation practice standard.

The producer shall implement a crop rotation including, but not limited to, sod, cover crops, green manure crops, and catch crops that provide the following functions that are applicable to the operation:

(1) Maintain or improve soil organic matter content;

(2) Provide for pest management in annual and perennial crops;

(3) Manage deficient or excess plant nutrients; and

(4) Provide erosion control.

(G) Crop pest, weed, and disease management practice standard.

(1) The producer shall use management practices to prevent crop pests, weeds, and diseases including, but not limited to:

(a) Crop rotation and soil and crop nutrient management practices, as provided for in this rule;

(b) Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and

(c) Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases.

(2) Pest problems may be controlled through mechanical or physical methods including, but not limited to:

(a) Augmentation or introduction of predators or parasites of the pest species;

(b) Development of habitat for natural enemies of pests;

(c) Nonsynthetic, nontoxic controls such as lures, traps, and repellents.

(3) Weed problems may be controlled through:

(a) Mulching with fully biodegradable materials;

(b) Mowing;

(c) Livestock grazing;

(d) Hand weeding and mechanical cultivation;

(e) Flame, heat, or electrical means; or

(f) Plastic or other synthetic mulches, provided that they are removed from the field at the end of the growing or harvest season.

(4) Disease problems may be controlled through:

(a) Management practices which suppress the spread of disease organisms; or

(b) Application of nonsynthetic biological, botanical, or mineral inputs.

(5) When the practices provided for in R68-20-3(G)(3)(a), (b), (c), and (d) of this section are insufficient to prevent or control crop pests, weeds, and diseases, a biological or botanical substance or a substance included on the National List of Synthetic Substances allowed for use in organic production may be applied to prevent, suppress, or control pests, weeds, or diseases, provided that the producer implements measures to evaluate and mitigate the effects of repetitive use of the same or similar materials on pest resistance and shifts in pest, weed, or disease types, and the substance is used in compliance with the Federal Insecticide, Fungicide, and Rodenticide Act.

(6) The producer or handler of an organic operation shall not use a pest, weed, or disease control substance produced through excluded methods.

(H) Wild-crop harvesting practice standard.

(1) Any area from which a wild crop that is intended to be sold, labeled, or represented as organic is harvested shall have had no prohibited substance, as set forth in R68-20-7, applied to it for a period of 3 years immediately preceding the harvest of the wild crop.

(2) A wild crop shall be harvested in a manner that ensures that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop.

R68-20-5. Livestock Production Standards.

Organic Livestock Production Requirements

(A) Organic Livestock Plan.

All certified organic livestock operators shall complete and file an Organic Livestock Plan. The following information shall be submitted concerning a livestock operation:

(1) Source and status of livestock:

(a) A list of all livestock maintained or to be maintained by the operation and to be purchased in the certification year for the production of organic agricultural products, indicating the species, source, projected number to be maintained and purchased, intended use (slaughter stock, egg, milk or fiber production), and whether the livestock originate from a certified organic or conventional livestock operation; and

(b) A detailed description of the livestock identification system.

(2) Living conditions:

(a) A description of the livestock's housing and living conditions, including access to outside, type and availability of indoor housing, amount of time spent in indoor housing, and justification of the need for such time;

(b) A description of management practices and inputs used to manage flies, predators, and other livestock pests;

(c) A description of manure handling, including composting procedures, storage, utilization, and measures taken to avoid environmental degradation.

(3) Feed requirements:

(a) For livestock operations which grow or produce organic crops for feed, an organic production and handling system plan shall be included, as described in R68-20-4(B);

(b) A description of the system for managing land grazed by livestock, including stocking rate, predominant forage species, length of time each unit is grazed before rotation, length of time not grazed each year, and techniques for preventing overgrazing, waste runoff, and erosion;

(c) A list of all livestock feed used or intended for use, indicating type, source(s), estimated amount needed, estimated amount to be purchased, what, if any, portion of the feed will not be organically produced, and certification documentation of purchased feed;

(d) A list of feed sources available for use in situations requiring emergency feed sources;

(e) A list of all livestock feed supplements and/or additives used or intended for use, indicating type, source(s), reason for use and projected amount to be used in feed ration; and

(f) Documentation that adequate fresh water is available as a water source for livestock.

(4) Health care:

(a) description of the management strategies used to promote livestock health, including preventive measures taken for disease and parasite control;

(b) The name, address, and phone number of the veterinarian, if applicable;

(c) Medical treatment records of each individual animal or flock, including a list of any animal drugs, including parasiticides, that are used or are intended for use, indicating date of use, withdrawal period, type of medication, source(s), documentation of need for use, and intended use of the animal;

(d) For dairy animals, information from milk test reports showing average somatic cell and bacteria count results for the past 4 months; and

(e) A description of all physical alteration done to the livestock, including type of surgical practice, reason for use, name of person responsible, and steps taken to prevent livestock stress.

(5) Slaughter practices:

(a) Name and address of slaughter facility;

(b) Description of handling and transport for slaughter.

(6) Record keeping system:

(a) Description of the livestock operation's record-keeping system, including information on livestock sources, breeding, animal identification types and sources of feed and feed supplements and additives, health care, transport, slaughter and sales.

(7) Split operation requirements for organic livestock plans:

(a) A list shall be submitted that shall include projected livestock quantities, when known, that shall indicate the species and projected numbers of organic and non-organic livestock, and that shall include all livestock products produced or intended to be produced both organically and non-organically. Such information may be designated "confidential" so that it will not be released by the certification agent.

(b) A list of prohibited substances used for livestock production in the non-certified portion of the farm;

(c) A list of all sites, equipment, and/or facilities, that are used for both organic and non-organic production, harvest, handling, or storage, and identification of organic and non-organic production sites or facilities on the operation map (such information may be designated "confidential" so that it will not be released by the certification agent);

(d) A description of measures taken by the operation to protect livestock or products from contamination by prohibited substances;

(e) A description of measures used to prevent commingling of organic and non-organic products. Animals diverted to conventional market shall be clearly identified and documented;

(f) A description of any additional records that are needed for audit trail verification of sales of organic and non-organic products.

(8) The Organic Livestock Plan shall be approved by a certification agent, and shall be updated annually.

(9) Operators shall notify the certification agent of all proposed major changes (R68-20-8(G)) to the Organic Livestock Plan.

(10) The plan shall describe the management practices and inputs used or intended to be used by the operation and identify all steps taken by the operation to maintain compliance with all applicable organic livestock production requirements as specified in these standards.

(11) Major changes requiring notification of certifier include:

(a) Significant expansion or reduction in animal numbers, other than projected in the Organic Plan;

(b) Additions or withdrawal of acreage certified; and

(c) Changes in products requiring a change to the certificate.

(B) Living Conditions.

(1) Certified organic livestock operations shall be based on systems that maximize animal health and allow for the natural behavior of animals. Such a production environment shall include the following with no exceptions granted for large livestock concentrations:

(a) Access to shade, shelter, fresh air, outdoors, and direct sunlight suitable to the species, the stage of production, the climate, and the environment;

(b) Adequate clean and dry bedding, appropriate to the husbandry system. If the bedding is typically consumed by the animal species, it shall comply with the organic feed standard; and

(c) A housing design which provides for:

(i) Natural maintenance;

(ii) Comfort behaviors and the opportunity to exercise;

(iii) Temperature levels, ventilation and air circulation suitable to the species;

(iv) Reduced potential for livestock injury; and

(v) Access to an outdoor exercise area with a surface that is predominantly grass, wood shavings, soil or other non-artificial bedding, this includes access to pasture for ruminant animals.

(d) Ample access to fresh water and feed according to the needs of the species and type of animals;

(e) When natural daylight is prolonged by artificial lighting it shall not lead to a day length which is longer than 20 hours unless this limitation endangers the well-being of the animal.

(2) Proper livestock health management may include periods of time when livestock are housed indoors. Temporary indoor housing may be justified for:

(a) Inclement weather;

(b) Conditions where the health, safety or well being of the animal could be jeopardized;

(c) The protection of plant, soil or water quality;

(d) The stage of animal production;

(e) The stage of implementation of an operation's Organic Livestock Plan;

(f) Confinement of beef cattle and sheep for fattening only if the confinement area is large enough to allow freedom of movement.

(3) Prohibited: The following living conditions are prohibited for organic production:

(a) Continuous confinement;

(b) Landless animal husbandry systems;

(c) Cages for poultry;

(d) White veal production;

(e) The use of treated lumber in new installations where toxic substances may contaminate livestock; and

(f) Routine maintenance of sows and piglets in farrowing crates for more than 4 days.

(C) Manure Management.

(1) Manure management practices used to maintain any area in which livestock are housed, pastured, or penned shall be implemented in a manner that:

(a) Optimizes recycling of nutrients;

(b) Minimizes soil and water degradation;

(c) Does not contribute to contamination of crops, soil, or water by nitrates, heavy metals, or pathogenic organisms;

(d) Does not include burning or any practice inconsistent with organic standards; and

(e) Does not include human waste products and sewage sludge (bio-solids).

(2) All manure storage and handling facilities, including composting facilities, shall be designed, constructed and operated to provide containment of runoff where manure is stockpiled.

(3) Manure application rates shall be at levels that do not contribute to ground and/or surface water contamination. The timing of application and application methods shall not increase the potential for run-off into ponds, rivers and streams and shall be

consistent with the following guidelines: manure shall be composted 120 days if a root crop is grown, or the crop is grown in contact with soil, or 90 days if the crop is grown and harvested above the soil.

(D) Sources of Livestock.

(1) Origin of livestock: Livestock, including slaughter stock, on a certified organic farm, and the products of such livestock, that are to be sold, labeled or represented as organically produced, shall have been under organic management from birth or hatching, or, in the case of mammals, shall be the offspring of breeder stock which have been under organic management since at least the last third of gestation, with the following exceptions:

(a) Breeder stock: Livestock may be designated as breeder stock for offspring that are to be raised as organic slaughter stock, provided that female breeder stock are managed in accordance with organic standards during at least the last third of gestation in order for their offspring to qualify as organic slaughter stock;

(b) Dairy stock: Livestock may be designated as organic dairy livestock for the production of organic milk or milk products, provided that, for replacement animals, cows shall be managed in accordance with organic standards for at least 12 months prior to the production of the milk or milk products that are to be sold, labeled or represented as organic. Other dairy species from conventional sources shall be managed organically 12 months prior to production or from birth if less than 12 months to production.

(i) Replacement dairy animals from conventional sources shall not exceed 10% of the milking herd on an annual basis. Exceptions, with specific time limits, may be granted by the certification agent for unforeseen severe natural or man-made disasters or when organic replacement animals are not commercially available in a region.

(ii) Once a dairy operation has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation, except that:

1) Transitional feed raised on the farm may be fed to young stock up to twelve months prior to milk production.

2) In order for dairy stock to be sold as organic slaughter stock, all organic slaughter stock standards shall apply.

(c) Poultry: Poultry may be designated as organic poultry for the production of organic meat or eggs, provided that they are brought onto an organic livestock operation beginning no later than the second day of life, and are managed organically from that point on.

(d) Livestock used for the production of non-edible livestock products: Livestock may be designated as livestock from which skin, fur, feathers, fibers and all non-edible products obtained from them can be sold, labeled or represented as organically produced, provided that such livestock are fed 100% certified organic feed and managed organically for one year (12 months) prior to the collection or harvest of non-edible organic products.

(e) Other livestock: (Organic aquaculture standards are still under development and are not included in this rule at this time.)

(f) The producer of an organic livestock operation shall maintain records sufficient to preserve the identity of all organically managed animals and edible and nonedible animal products produced on the operation.

(2) Prohibited Sources of Livestock:

(a) Breeder or dairy stock that have not been under continuous organic management from the last third of gestation before birth may not be sold, labeled, or represented as organic slaughter stock;

(b) Genetically engineered animals and animals from embryo transfer and/or cloning techniques are prohibited for use as organic breeding, production, or slaughter stock;

(c) Organically produced animals that have been diverted to conventional production shall not be transferred back to organic production.

(E) Feed Requirements.

(1) All certified organic livestock shall be fed certified organically produced and handled feeds.

(2) Any feed or forage purchased from off-farm shall be certified as meeting the requirements for organic production and handling.

(3) Requirements for Pasture.

(a) Lands on which livestock are grazed or pastured shall be certified, and the Organic Plan shall contain management measures designed to maximize edible forage throughout the grazing season, establish appropriate stocking rates, and maintain or improve soil fertility and range land health, as approved by the certification agent.

(b) Buffer zones for pastures. Pastures used for grazing shall include buffer zones where the pastures border known sources of contaminants, including land to which prohibited substances have been applied.

(c) Pasture Requirement. Access to managed pasture shall be provided for ruminant animals.

(d) Temporary exceptions shall only be allowed for:

(i) Inclement weather;

(ii) Conditions where the health, safety or well being of the animal could be jeopardized;

(iii) The protection of plant, soil or water quality;

(iv) The animal's stage of production; or

(v) The stage of implementation of an operation's Organic Livestock Plan.

(e) When pasture is not available to ruminant animals for any of the above reasons, certified organic forage shall be made available.

(4) Weaning.

(a) Young mammalian livestock shall receive adequate natural colostrum milk. Slaughter stock which receive synthetic colostrum shall be sold as non-organic or used as breeding stock.

(b) All mammalian livestock shall receive natural whole milk until weaning. Temporary use of non-medicated milk replacer shall be documented in an operation's Organic Livestock Plan, and shall be approved by the certification agent.

(c) Early weaning shall require written justification (under 4 weeks for piglets, 3 months for beef and dairy and 18 kg or 2 months for sheep and goats).

(5) Feed Emergency. A feed emergency is a temporary, unplanned shortage of certified organic feed due to conditions that are entirely beyond an operator's control, such as fire, drought, flood, or other natural disasters.

(a) To qualify for an emergency exemption from organic feed requirements, the operator shall document efforts to obtain organic feed in advance of the depletion of feed reserves, establish an emergency feed plan in the Organic Livestock Plan, and receive approval from the certification agent.

(b) In the case of a feed emergency, the operator shall notify the certification agent of the emergency, and shall obtain feed based on the following order of preference:

(i) Certified organic feed;

(ii) Non-certified organic feed;

(iii) Feed grown under organic management for two years;

(iv) Feed grown under organic management for one year; or

(v) non GEO/GMO feed

(vi) Conventional feed.

(c) Transitional or conventional feed shall be fed first to animals furthest away in time from production of products intended to be sold as organic.

(6) Feed Additives. Additives fed to organic livestock shall meet the following requirements:

(a) Feed additives that are non-synthetic may be from any source, provided that the additive is not listed in R68-20-7(D) as a non-synthetic substance prohibited for organic livestock production.

(b) Synthetic feed additives shall be on the National List of Synthetic Substances allowed for organic livestock production (R68-20-7(C)).

(7) Feed Supplements. Supplements fed to organic livestock shall meet the following requirements:

(a) Feed supplements that are non-synthetic, such as salt, limestone, (calcium carbonate), and kelp, shall be from any source, provided that the supplement is not listed in R68-20-7(D) as a non-synthetic substance prohibited for organic livestock production.

(b) Synthetic feed supplements shall be on the National List of Synthetic Substances allowed for organic livestock production (R68-20-7(C)). Permitted supplements include vitamins and minerals.

Listed synthetic vitamins and minerals may be fed to livestock under organic management only as necessary for the purpose of fulfilling the documented nutritional requirements of the livestock, and their use shall be reported in the Organic Livestock Plan.

(8) Feed concentrates. Feed concentrates shall be organically produced. These include, but are not limited to: agricultural grains, beans, seeds, meals, beet pulp, brewer's grains, distillers' grains, and molasses.

(9) Prohibited feeds, concentrates, additives and supplements. The following substances or methods are prohibited for the feeding of organic livestock:

(a) Any synthetic substance that does not appear on the National List of Synthetic Substances allowed for organic livestock production (R68-20-7(C)). This includes but is not limited to synthetic preservatives, stabilizers, and coloring agents;

(b) The use of the following, whether implanted, injected, or administered orally, for the purpose of stimulating the growth or production of livestock:

(i) Hormones or growth stimulators;

(ii) Antibiotics or other animal drugs;

(iii) Synthetic amino acids, vitamins, or trace elements fed above levels needed for adequate nutrition;

(c) Plastic pellets for roughage;

(d) Manure feeding or re-feeding;

(e) Feed formulas containing urea;

(f) Any feed made from meal that has been extracted by the use of synthetic solvents, e.g., hexane;

(g) Medicated feeds and milk replacers;

(h) Synthetic colostrum replacer for slaughter stock;

- (i) Synthetic silage and forage preservatives;
- (j) The feeding of poultry and mammalian slaughter by-products to organic poultry and mammals;
- (k) Genetically engineered organisms, including their derivatives, in feeds and feed concentrates; and
- (l) Genetically engineered organisms, including their derivatives, in feed supplements and feed additives.
- (m) Intentional malnutrition;
- (n) Use of feed, feed additives, or feed supplements in violation of the Federal Food, Drug and Cosmetic Act.

(10) Plastic and other synthetic materials used for bale wraps, silage covers, and other uses to protect or preserve feed shall be disposed of appropriately or recycled. Plastic shall not be incorporated into the soil or burned as a means of disposal.

(F) Water.

- (1) Livestock shall have access to clean drinking water.
- (2) If the primary source of livestock drinking water comes from surface waters (e.g., ponds and creeks) that collect from land that has been treated with prohibited substances, or a well or other source suspected to be contaminated, that water may be tested for residues of prohibited substances, as determined by the certification agent.

(a) Residues of prohibited substances shall be less than maximum contaminant levels as established by the Safe Drinking Water Act.

(b) The certification agent may require further testing of livestock products to determine that no residues of contaminants are found in organic products above the maximum allowable mean.

(3) Problems resulting from improper water management such as aquifer depletion, excessive puddling, and soil erosion will be monitored during the annual inspection. If the inspector's reports indicates concern about any of these factors, information will be immediately reviewed by authorized Utah Department of Agriculture and Food personnel.

(G) Livestock Health Care.

(1) Producers shall maintain a production environment that promotes livestock health and limits livestock stress.

(2) Organic livestock producers shall take all necessary steps to maintain the health of their animals. These may include, but are not limited to:

- (a) Balanced, complete nutrition;
- (b) Selection and breeding of animals for resistance and immunity to disease and parasites;
- (c) Establishment of appropriate housing with regard to suitability for site-specific conditions of species and type;
- (d) Proper sanitation and hygiene with approved materials;
- (e) Exercise, freedom of movement, and reduction of stress;
- (f) Pasture management and proper drainage;
- (g) Timely attention to routine production chores such as hoof trimming and grooming
- (h) Quarantine of incoming stock (minimum of 30 days for large mammals after their introduction into an organic operation);
- (i) Quarantine of sick or injured animals;
- (j) Vaccinations as required by law or for diseases endemic to an area, as documented in the Organic Livestock Plan and approved by the certification agent;
- (k) Testing for diseases before introducing new animals;
- (l) Administering veterinary biologic, vitamins, and minerals;

(m) Treatment of animals only for specific diseases as defined by a veterinarian.

(n) Thorough cleansing and appropriate dressing of all open wounds to prevent infection and the need for antibiotics;

(o) Culling weak animals; and

(p) Feeding colostrum for at least 24 hours.

(3) Livestock producers are required to manage livestock to reduce the risk of parasite infestation through cultural and biological practices, which may include, but are not limited to:

(a) Quarantine and fecal examination for all incoming stock (minimum of 30 days for incoming large mammals after their introduction into an organic operation);

(b) Pasture rotation, sanitation and management including drainage;

(c) Periodic fecal examinations and culling seriously infested individuals;

(d) Wildlife management to prevent infection of pastures with parasites;

(e) Vector and intermediate host control;

(f) Release of beneficial organisms;

(g) Natural dusting wallows for poultry; and

(h) Good sanitation and disinfecting of facilities with approval materials.

(4) If methods pursuant to R68-20-5(G) of this chapter are not adequate, in the event of documented sickness or infestation with parasites, organic producers are permitted to use the following:

(a) Non-synthetic substances that are not on the National List of Non-Synthetic Substances prohibited for livestock production (R68-20-7(D)); or

(b) Synthetic substances that are on the National List of Synthetic Substances allowed for organic livestock production (R68-20-7(C)).

(i) Any use of a synthetic parasiticide shall require written justification, approval by the certification agent, and shall be recorded in the operation's Organic Livestock Plan.

(ii) As part of the Organic Livestock Plan, synthetic parasiticides are allowed for:

1) Breeder stock, but not during the last third of gestation if progeny is to be sold as organic; and

2) Dairy stock, including bovine, ovine and caprine species, when used a minimum of 90 days prior to the production of milk or milk products that are to be sold, labeled, or represented as organically produced.

(iii) Synthetic parasiticides are prohibited for:

1) All livestock for slaughter;

2) Lactating animals, if the milk or progeny is to be sold as organic.

3) All appropriate medications shall be used to restore an animal to health when methods acceptable to organic production fail.

(a) Any use of a synthetic medication shall require a written justification for use, approval by the certification agent, and shall be recorded in the operation's Organic Livestock Plan.

(b) If a prohibited material is used on an animal, that animal cannot be used thereafter for organic production or be sold, labeled or represented as organic. The following livestock health care substances and methods are prohibited:

(i) The use of antibiotics or synthetic parasiticides in slaughter stock, dairy stock, or other stock producing edible or non-edible products;

(ii) The use of antibiotics in dairy stock less than 90 days prior to lactation for new herds or replacements, and less than one year for stock producing non-edible products prior to the harvest of such products that are to be sold, labeled or represented as organically produced;

(iii) The use of antibiotics or synthetic parasiticides in breeder stock during the last third of gestation. Such use results in a non-organic status for the progeny of the affected pregnancy;

(iv) Any synthetic substance, including any medication, antibiotic, hormone, or parasiticide, that is not on the National List of Substances allowed for organic livestock production (R68-20-7(C));

(v) Any non-synthetic substance that is on the Prohibited Non-Synthetic List (R68-20-7(D));

(vi) Subtherapeutic doses of any antibiotic;

(vii) Routine use of synthetic parasiticides;

(viii) Administration of any medication, other than vaccinations, in the absence of illness, including hormones for breeding purposes or reproductive treatment; and

(ix) Use of any animal drug in violation of the Federal Food, Drug, and Cosmetic Act.

(c) The action of a producer to withhold treatment to maintain the organic status of an animal which results in the otherwise avoidable suffering or death of an animal are grounds for decertification.

(d) Livestock treated with a prohibited substance shall be clearly identified and shall not be sold, labeled, or represented as organically produced.

(6) Physical alterations:

(a) Physical alterations may only be conducted for the animal's ultimate benefit, and these practices shall be administered in ways that minimize pain and stress.

(i) If used they shall be carried out with the utmost care for the health and well being of the animal.

(ii) Suffering shall be minimized and anesthetics used when appropriate.

(2) The following physical alterations are regulated and may be used only if the following conditions are met:

(i) Beak trimming of poultry:

1) Beak trimming may be done no later than 10 days old;

2) Beak trimming may only be done for protection of the flock, using the most humane methods available; and

3) Beak trimming may only be done in conjunction with good organic management practices as defined by these standards.

(ii) Dehorning, castration, freeze branding, and removal of extra teats may only be done at a young age, using the most humane methods.

(3) The following physical alterations are not allowed:

(i) Tail cutting, with the exception of lambs;

(ii) Wing burning;

(iii) Teeth cutting, with the exception of pigs;

(iv) Toe clipping of poultry;

(v) De-spurring of poultry, unless performed for the protection of other birds in the flock; and

(vi) All other livestock mutilation practices not specifically mentioned above.

(7) Reproduction:

(a) Natural service is preferred. Artificial insemination is allowed.

(b) Embryo transfer and cloning are not allowed.

(H) Audit Trail.

(1) An audit trail shall be maintained which permits tracing the sources and amounts of all animals, feeds, feed supplements, feed additives, and medications.

(2) Organic livestock shall be traced from birth to slaughter, including purchase and sales.

(3) Livestock health records which show all health problems and the practices and materials used for treatment shall be maintained.

(4) With the exception of poultry, rabbits, bees and other small animals, organic livestock shall be individually identified. All large animals (including pigs, goats, cattle, sheep, etc.) shall be identified by numbered tags, names, tattoos, etc., suitable to the species and production system.

(a) Each animal that is treated with a veterinary drug shall be clearly identified with a tag that corresponds to a record of the material used and date of treatment.

(b) Paints and crayons used to mark livestock shall not contain prohibited materials and shall be used in a manner that does not contaminate the livestock or livestock products.

(5) Poultry, rabbits, bees and other small animals that are not individually identified are to be tracked by lots or other applicable units, wherein all individuals have received the same inputs and treatment.

(I) Slaughter.

(1) Animal stress, injury, and accidental mortality shall be minimized during loading, unloading, shipping, holding, and slaughter.

(2) No synthetic tranquilizers or stimulants shall be administered prior to or during transport.

(3) Stunning is to be in accordance with the Humane Slaughter Act of 1978.

(4) Carcass marking agents shall be approved for use by the local governmental regulatory agency and meet requirements of these standards.

(5) Meat products shall be clearly identifiable back to the primary producer and through to point of sale. Care shall be exercised to keep certified products isolated from all possible contamination and prohibited materials during transit and at point of sale.

(6) Slaughter shall occur at certified organic facilities under sanitary conditions and in accordance with all applicable laws and regulations.

(7) Organic animals and animal products shall be clearly identified and segregated to prevent commingling with non-organic animals and animal products.

(8) Use of mobile slaughter units requires written justification by the producer.

(J) Milk Handling.

(1) Organic dairy operations shall comply with all applicable regulatory requirements as specified in the Grade A Pasteurized Milk Ordinance as adopted in R70-3-10.

(2) Cleaning milking equipment with scalding water and substances listed on the approved materials list (R68-20-7(E)).

(3) Sanitizing udders with approved substances (R68-20-7(E)).

(K) Apiculture.

(1) Sources. Bees may be designated as organic livestock and products obtained from them can be sold, labeled or represented as organically produced, if managed in accordance with organic standards for at least 60 days prior to the collection of organic apiculture products.

(2) Forage. Bees from which organic honey and other products are harvested shall have access to forage produced in accordance with organic standards, provided that the hives are located on certified land and are not within 2 miles of a sanitary landfill, incinerator, power plant, golf course, town or city, crops sprayed with prohibited substances, genetically modified crops, or other sources of contamination, as described in the Organic Livestock Plan approved by the certification agent. The minimum distance may be increased by the certification agent, if deemed necessary, on a case by case basis.

(a) Feeding of bee colonies where conditions require reserves to be built up for winter may be undertaken. Feeding shall be carried out between the last honey harvest and the period of dormancy of the colony.

(b) Feed shall be derived from organic honey or organic sugar syrup, but non-organic honey or sugar syrup is allowed on a temporary and limited basis with written justification of need and documentation of the lack of organic feed sources, and shall be approved by the certification agent.

(c) The feeding of non-organic honey or sugar syrup is prohibited when honey supers are in place or during the 30 days preceding the placement of honey supers on the hive.

(3) The health of bee colonies shall be maintained by good apiary practices. These include:

(a) The use of hardy breeds that adapt well to the local conditions;

(b) Regular renewal of queen bees;

(c) Regular cleaning and disinfection of equipment;

(d) Use of non-contaminated foundation wax;

(e) Destruction of contaminated materials;

(f) Regular renewal of beeswax; and

(g) Availability in hives of sufficient pollen and honey.

(4) The following are not allowed in managing organic apiaries:

(a) Acknowledging the presence of pests, parasites or diseases without efforts to restore the health of the colony;

(b) The use of prohibited pesticides for the prevention or control of pests or parasites;

(c) Using antibiotics, sulfa products or any drug not specifically allowed by these standards (R68-20-7) or that is not on the National List of Synthetic Substances allowed for organic livestock production;

(d) Use of pressure treated lumber for hive construction materials;

(e) Use of chemical bee repellents;

(f) The cycling of hives between conventional and organic management.

(5) Honey Handling:

(a) An operation which processes or handles organic honey shall be in compliance with all applicable handling requirements of these organic standards.

(b) If a facility processes both organic and non-organic honey, all equipment, including containers and lines used to transport

and/or store honey, shall be completely emptied and cleaned prior to processing organic honey.

(c) Equipment which comes in contact with honey shall be made of stainless steel, glass, or other food grade materials.

R68-20-6. Handling and Labeling Standards.Organic Handling Requirements(A) Applicability.

(1) "Handling" includes selling, processing, packaging or storing agricultural products. A "handler" includes any person engaged in the business of handling agricultural products, but not including final retailers who are exempt under R68-20-6(6) and R68-20-6(6)(b). A "handling operation" includes any operation or portion of an operation that receives processes, packages, or stores agricultural products.

(2) Handlers who hold legal title to organic products shall be responsible for maintaining the organic integrity of the organic products they handle. Handlers who shall be certified include food services, jobbers, packers, shippers, and processors who take legal title to organic products, including livestock feed, as well as retailers and distributors who process and substantially transform, re-pack, label, or re-label organic products.

(3) The activity of individuals or businesses who do not take legal title to organic products but act as agents, licensees, employees, contractors, subcontractors, co-packers, or co-processors, and who process, package, or store organic agricultural products for a certified organic farming or handling operation shall be covered by the certification of that organic farming or handling operation. Such activity shall be described in the Organic Plan and shall be inspected and scrutinized with the same rigor and to the same standards as the certified organic operation for which they act as an agent, licensee, employee, contractor, subcontractor, co-packer, or co-processor.

(4) Individuals and businesses that do not need to be certified include brokers, commission merchants, and truckers which do not take legal title to organic products.

(5) Handlers who are not subject to certification shall follow applicable Organic Good Manufacturing and Handling Practices, as described in R68-20-6(D), to prevent commingling and contamination of organic products by prohibited substances, and maintain the integrity of ingredients identified as "organic" in the ingredient statements.

(a) Non-certified retailers are responsible to maintain documentation of certification from suppliers. Distributors not required to be certified shall maintain audit trail records of organic products sufficient to document source and certification of products so that retailers have access to verification information.

(b) Produce shall be shipped in boxes clearly identified with grower's name and address and certification agent. Other commodities shall be shipped in bags or containers that are identified by lot number and certification agent, or are linked to and accompanied by appropriate documents that provide the information required in R68-20-6(F)(7)(a).

(6) Retailers, who do not process, substantially transform, re-pack, or re-label are exempt from certification.

(a) All retail operations that process organic foods: produce organic products under their own name, for example private labels; or that handle certified organic goods which are not in a final

package, shall be certified. Examples of types of retail activities that require certification:

- (i) Multi-ingredient food preparation;
- (ii) Salad bars, juice bars;
- (iii) Bakeries; and
- (iv) Store labeling or branding of organic products.

(b) Examples of types of retail activities that do NOT require certification:

- (i) Normal produce handling and display;
- (ii) Re-packaging for weight, including cutting of meat.

Original identification of organic certification shall be posted or maintained on label; and

(iii) Bulk or bin sales, as long as item is clearly labeled with certification information.

(B) Organic Handling Plan.

General requirements.

(a) All certified organic handlers shall complete and file an Organic Handling Plan.

(b) It shall be approved by the certification agent.

(c) Operators shall notify the certification agent of all proposed major changes to the Organic Handling Plan. Major changes are limited to:

- (i) Additional processes and/or products;
- (ii) Withdrawal of process and/or products from certification;

and

(iii) Changes to certificate such as products, processes, name of responsible person, and change in ownership of operation.

(d) The plan shall describe all steps taken by the operation to maintain compliance with all applicable organic handling requirements as specified in these standards.

(e) The plan shall address all elements of organic handling that are applicable to a particular handling operation, including:

- (i) The handling system description;
- (ii) Procedures for assuring organic integrity;
- (iii) Material inputs or ingredients;
- (iv) Ingredient and finished product storage;
- (v) Transportation;
- (vi) Audit trail system; and
- (vii) Pest management.

(C) Organic Handling Requirements.

(1) Mechanical or biological methods, including, but not limited to, cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing, and the packaging, canning, jarring, or otherwise enclosing food in a container may be used to process an agricultural product intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)" for the purpose of retarding spoilage or otherwise preparing the agricultural product for market.

(2) Nonagricultural substances allowed under R68-20-7(G) and non-organically produced agricultural products allowed under R68-20-7(H) may be used in or on a processed agricultural product intended to be sold, labeled, or represented as "organic" or "made with organic (specified ingredients)."

(3) The handler of an organic handling operation shall not use in or on an agricultural product intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)";

(a) Ionizing radiation for any purpose;

(b) An ingredient produced with excluded methods; or

(c) A volatile synthetic solvent or any other synthetic processing aid not allowed under R68-20-7(G) as ingredients in or on processed products labeled as organic or made with organic ingredients.

(D) Good Manufacturing Practices.

(1) All certified organic handlers and processors shall comply with the Good Manufacturing Practices (GMP's) in 21 Code of Federal Regulations 110, the Utah Wholesome Food Act and the Utah Food Protection rule.

(2) Sanitation.

(a) Cleanliness. Necessary precautions shall be taken to protect against contamination of food, food-contact surfaces, or food-packaging materials with microorganisms or foreign substances including, but not limited to: perspiration, hair, cosmetics, tobacco, chemicals, metal fragments, glass shards, soil, medicines applied to the skin, substances that are not included on the National List of Substances Allowed for Processed Food, and non-synthetic substances included on the National List of Prohibited Non-synthetic Substances.

(b) Sanitation of Food Contact Surfaces. In organic handling operations, treatment of food contact surfaces, including utensils and food-contact surfaces of equipment, with cleaning compounds and sanitizers shall be done in such a way as to prevent the loss of organic integrity.

(i) Extra rinses, flushes, purges and/or analysis may be required prior to the production of organic products.

(ii) Records shall be maintained to verify protection of organic integrity.

(3) Facility pest management practice standard.

(a) The producer or handler of an organic facility shall use management practices to prevent pests, including, but not limited to:

- (i) Removal of pest habitat, food sources, and breeding areas;
- (ii) Prevention of access to handling facilities; or
- (iii) Management of environmental factors, such as temperature, light, humidity, atmosphere, and air circulation to prevent pest reproduction.

(b) Pests may be controlled through:

(i) Augmentation or introduction of predators or parasites for the pest species;

(ii) Mechanical or physical controls including, but not limited to: traps, light, or sound; or

(iii) Nontoxic, nonsynthetic controls, such as lures and repellents.

(c) If the practices provided for in R68-20-6(D)(3)(a) and (b) of this section are not effective to prevent or control facility pests, a nonsynthetic biological or botanical substance or a synthetic substance may be applied to prevent, suppress, or control pests. The substance shall be applied in the manner consistent with its label as approved by the Federal, State, and local regulatory authorities.

(d) The handler of an organic handling operation who applies a nonsynthetic biological or botanical substance or a synthetic substance for the prevention or control of a pest shall include in the organic handling plan a list of all measures taken or intended to be taken to prevent contact between the substance and any ingredient

or finished product intended to be sold, labeled, or represented as "organic" or "made with organic (specified ingredients)."

(e) The handler of an organic handling operation who applies a nonsynthetic biological or botanical substance or a synthetic substance for the prevention or control of a pest shall include in the organic handling plan an evaluation of the effects of repetitive use of the same or similar materials on pest resistance and shifts in pest types.

(4) Plant construction/design. Plant construction and design shall permit the taking of proper precautions to reduce the potential for contamination of food, food-contact surfaces, or food-packaging materials with pests, microorganisms, chemicals, filth, substances that are not included in the National List of Substances Allowed for Processed Food, non-synthetic substances of Prohibited Non-synthetic Substances, or other extraneous materials.

(5) Transportation.

(a) Organic products shall be transported in clean containers which are free of odors or residues of prohibited substances and/or non-organic products which could compromise the integrity of the organic products.

(b) Transport units, for example, trucks/trailers, shall be food grade and shall be inspected and documented as free of odors or residues prior to loading with open or unprotected organic products. Organic products in sealed, impermeable market containers may be shipped following industry standards for food grade transport.

(E) Commingling and contact with prohibited substance prevention practice standard.

(1) The handler of an organic handling operation shall implement measures necessary to prevent the commingling of organic and non-organic products and protect organic products from contact with prohibited substances.

(2) The following methods and substances are prohibited for use in the handling of any agricultural product intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)":

(a) Packaging materials and storage containers or bins that contain a synthetic fungicide, preservative, or fumigant;

(b) The use or reuse of any bag or container that had previously been in contact with any substance in such a manner as to compromise the organic integrity of any products unless, after use for conventional products, the reusable bin or container has been thoroughly cleaned and poses no risk of prohibited materials contacting the organic product.

(F) Labels, Labeling, and Market Information.

(1) Use of the term, "organic."

(a) The term, "organic," may only be used on labels and in labeling of raw or processed agricultural products, including ingredients, that have been produced and handled in accordance with the rule. It is prohibited to use the term "organic" as a part of a corporate name, company name, brand name or trade mark unless the product is organic as defined in R68-20-6(F)

(b) Products for export, produced and certified to foreign national organic standards or foreign contract buyer requirements, may be labeled in accordance with the organic labeling requirements of the receiving country or contract buyer, provided that the shipping containers and shipping documents meet the labeling requirements specified in R68-20-6(F)(7)(c).

(c) Products produced in a foreign country and exported for sale in the United States shall be certified pursuant to R68-20-8 and labeled pursuant to R68-20-6(F).

(2) Product composition.

(a) Products sold, labeled, or represented as "100 percent organic." A raw or processed agricultural product sold, labeled, or represented as "100 percent organic" shall contain (by weight or fluid volume, excluding water and salt) not less than 100 percent organically produced raw or processed agricultural product. No such product or product ingredient may contain or be created using excluded methods or be produced using sewage sludge or ionizing radiation. If labeled as an organic food product, such product shall be labeled pursuant to R68-20-6(F)(4).

(b) Products sold, labeled, or represented as "organic." A raw or processed agricultural product sold, labeled, or represented as "organic" shall contain (by weight or fluid volume, excluding water and salt) not less than 95 percent organically produced raw or processed agricultural product. Any remaining product ingredients shall consist of nonagricultural substances or non-organically produced agricultural products approved in the National List of Allowed and Prohibited Substances in R68-20-7 and shall not contain or be created using excluded methods or be produced using sewage sludge or ionizing radiation. If labeled as an organic food product, such products shall be labeled pursuant to R68-20-6(F)(4).

(c) Products sold, labeled, or represented as "made with organic (specified ingredients)." Multi-ingredient agricultural products sold, labeled, or represented as "made with organic (specified ingredients)" shall contain (by weight or fluid volume, excluding water and salt) at least 50 percent organically produced agricultural products which are produced and handled pursuant to requirements in R68-20-4 and R68-20-5. The non-organic ingredients shall not contain or be created using excluded methods or be produced using sewage sludge or ionizing radiation. If labeled as an organic food product, such products shall be labeled pursuant to R68-20-6(F)(5).

(d) Products with less than 50 percent organic ingredients. The organic ingredients in multi-ingredient agricultural product containing less than 50 percent organic ingredients (by weight or fluid volume, excluding water and salt) shall be produced and handled pursuant to requirements in R68-20-4 and 5. The non-organic ingredients may be produced and handled without regard to the requirements of this rule. Multi-ingredient agricultural product containing less than 50 percent organically produced ingredients may represent the organic nature of the product only as provided in R68-20-6(F)(6).

(e) All ingredients identified as "organic" in the ingredient statement of any product shall not:

(i) Be produced using excluded methods or products of excluded methods as ingredients or processing aids;

(ii) Be produced using sewage sludge;

(iii) Be processed using ionizing radiation;

(iv) Be processed using processing aids not approved on the National List of Allowed and Prohibited Substances in R68-20-7, except that products labeled as "100 percent organic," if processed, shall be processed using no processing aids;

(v) Contain sulfites, nitrates, or nitrites added during the production or handling process;

(vi) Be produced using non-organic ingredients when organic ingredients are available; or

(vii) Include organic and non-organic forms of the same ingredient.

(3) Calculating the percentage of organically produced ingredients.

(a) The percentage of all organically produced ingredients in an agricultural product sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)," or that include organic ingredients shall be calculated by:

(i) Dividing the total net weight (excluding water and salt) of combined organic ingredients by the total weight (excluding water and salt) of the finished product.

(ii) Dividing the fluid volume of all organic ingredients (excluding water and salt) by the fluid volume of the finished product (excluding water and salt) if the product and ingredients are liquid. If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation shall be made on the basis of single-strength concentrations of the ingredients and finished product.

(iii) For products containing organic ingredients in both solid and liquid form, dividing the combined weight of the solid ingredients and the weight of the liquid ingredients (excluding water and salt) by the total weight (excluding water and salt) of the finished product.

(b) The percentage of all organically produced ingredients in an agricultural product shall be rounded down to the nearest whole number and indicated on the information panel above the ingredient statement with the words, "contains (blanks to be filled using the correct value) percent organic ingredients."

(c) The percentage shall be calculated by the handler who affixes the label on the consumer package and verified by the certifying agent of the handler.

(4) Packaged products labeled "100 percent organic" or "organic."

(a) Agricultural products in packages described in R68-20-6(F)(2)(a) and (b) may display, on the principal display panel, information panel, and any other panel of the package and on any labeling or market information concerning the product, the following terms:

(i) The term, "100 percent organic" or "organic," as applicable, to modify the name of the product;

(ii) The UDAF Organic Seal;

(iii) The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the finished product and any other certifying agent which certified production or handling operations producing raw organic product or organic ingredients used in the finished product, provided that the handler producing the finished product maintain records, pursuant to this chapter, verifying organic certification of the operations producing such ingredients, and: Provided further, That, such seals or marks are not, individually, displayed more prominently than the UDAF Organic Seal.

(b) Agricultural products in packages described in R68-20-6(F)(2)(a) and (b) shall:

(i) On the information panel of multi-ingredient products and consistent with the labeling requirements of the Food and Drug Administration, declare the total percentage of organic ingredients in the product.

(ii) In the ingredient statement, modify each organic ingredient of multi-ingredient products with the word, "organic," except that ingredients in multi-ingredient products labeled "100 percent organic" are not required to be modified with the term "organic." Any water or salt included as an ingredient will not be identified as organic.

(iii) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by....," or similar phrase, identify the name of the certifying agent that certified the handler of the finished product. The business address or telephone number of the certifying agent may be included in such label.

(5) Packaged products labeled "made with organic (specified ingredients)."

(a) Agricultural products in packages described in R68-20-6(F)(2)(c) of this chapter may display on the principal display panel, information panel, and any other panel and on any labeling or market information concerning the product:

(i) The statement, "made with organic (specified ingredients)," provided that display of the statement is consistent with labeling requirements of the Food and Drug Administration, and:

(1) Does not list more than three organic ingredients;

(2) Does not exceed one-half the size of the largest type size on the panel; and

(3) Appears in its entirety in the same type size, style, and color without highlighting; and

(ii) The seal, logo, or other identifying mark of the certifying agent that certified the handler of the finished product.

(b) Agricultural products in packages described in R68-20-6(F)(2)(c) shall:

(i) On the information panel and consistent with the labeling requirements of the Food and Drug Administration, declare the total percentage of organic ingredients in the product.

(ii) In the ingredient statement, modify each organic ingredient with the word, "organic." Any water or salt included as an ingredient will not be identified as organic.

(iii) On the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, "Certified organic by....," or similar phrase, identify the name of the certifying agent that certified the handler of the finished product. The business address or telephone number of the certifying agent may be included in such label.

(c) Agricultural products in packages described in R68-20-6(F)(2)(c) of this chapter shall not display the UDAF Organic Seal.

(6) Multi-ingredient packaged products with less than 50 percent organic ingredients.

(a) Agricultural products with less than 50 percent organic ingredients shall:

(i) On the information panel and consistent with the labeling requirements of the Food and Drug Administration, declare the total percentage of organic ingredients in the product.

(ii) In the ingredient statement, modify each organic ingredient with the word, "organic."

(b) Agricultural products with less than 50 percent organic ingredients shall not display:

(i) The UDAF Organic Seal nor

(ii) Any certifying agent's seal, logo, or other identifying mark.

(7) Labeling of non-retail containers used for only shipping or storage of raw or processed agricultural products labeled as "100 percent organic," "organic," or "made with organic (specified ingredients)."

(a) Non-retail containers used only to ship or store raw or processed agricultural product labeled as containing organic ingredients may display the following terms or marks:

(i) The name and contact information of the certifying agent which certified the handler which assembled the final product;

(ii) Identification of the product as "organic product";

(iii) Special handling instructions needed to maintain the organic integrity of the product;

(iv) The UDAF Organic Seal;

(v) The seal, logo, or other identifying mark of the certifying agent that certified the organic production or handling operation that produced or handled the finished product.

(b) If not required under other Federal labeling regulations, non-retail containers used to ship or store raw or processed agricultural product labeled as containing organic ingredients shall display the production lot number of the product, if applicable.

(c) Shipping containers of domestically produced product labeled as organic intended for export to international markets may be labeled consistent with any shipping container labeling requirements of the foreign country of destination or the container labeling specifications of a foreign contract buyer, provided that the shipping containers and shipping documents accompanying such organic product be clearly marked "for export only," and provided further that proof of such container marking and export shall be maintained by the handler, consistent with record keeping requirements for exempt and excluded operations under R68-20-3(B).

(8) Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as "100 percent organic" or "organic."

(a) Agricultural products labeled or represented as "100 percent organic" or "organic" in retail display, labeling, and display containers may use the term, "100 percent organic" or "organic," as applicable, to modify the name of the product, provided that such products are assembled in a manufacturing facility certified in accordance with the requirements of this chapter; and provided further that the word "organic" is used to modify the organic ingredients listed in the ingredient statements of the products.

(b) The retail display, labeling, and display containers may use:

(i) The UDAF Organic Seal;

(ii) The seal, logo, or other identifying mark of the certifying agent that certified the production or handling operation producing the finished product and any other certifying agent which certified operations producing raw organic product or organic ingredients used in the finished product provided that such seals or marks are not, individually, displayed more prominently than the UDAF Organic Seal.

(9) Agricultural products in other than packaged form at the point of retail sale that are sold, labeled, or represented as "made with organic (specified ingredients)."

(a) Retail displays, display containers, and market information of agricultural products containing between 50 and 95 percent

organic ingredients may use the phrase, "made with organic (specified ingredients)," provided that such products have been assembled at a manufacturing facility certified in accordance with the requirements of this chapter, and:

(i) Such statement does not list more than three organic ingredients, and

(ii) In any such display of the product's ingredient statement, the organic ingredients shall be modified as "organic."

(b) Such agricultural products labeled as "made with organic (specified ingredients)" in retail displays, display containers, and market information may display the certifying agent's seal, logo, or other identifying mark.

(10) Agricultural products produced on an exempt or excluded operation.

(a) An agricultural product organically produced or handled on an exempt or excluded operation shall not:

(i) Display the UDAF Organic Seal or any certifying agent's seal or other identifying mark which represents that the production or handling operation as a certified organic operation, or

(ii) Be represented as a certified organic product to any buyer.

(b) An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multi-ingredient product produced by the exempt or excluded operation. Such product or ingredient shall not be identified as "organic" in a product processed by others.

(c) Such product is subject to labeling requirements specified in R68-20-6(F)(1)(a) and R68-20-6(F)(2)(e)(i) through (vii).

(11) UDAF Organic Seal.

The UDAF Organic Seal may be used only for agricultural products (raw or processed) described in R68-20-6(F)(2)(a) and (b).

R68-20-7. List of Allowed and Prohibited Substances in Organic Production and Handling.

(A) Introduction.

Under the Organic Foods Production Act (OFPA) of 1990 (7 U.S.C. 6501 et seq.), the National Organic Standards Board was designated to propose a National List of approved and prohibited substances to be included in the standards for organic production and handling. Substance names listed below are similar to items listed in the 2000 proposed USDA National Organic Program 7 CFR Part 205.

(B) To be sold or labeled as "organic," or "made with organic (specified ingredients)," the product shall be produced and handled without the use of:

(1) Synthetic substances and ingredients, except as provided in R68-20-7 (C) and (E).

(2) Nonagricultural substances used in or on processed products, except as otherwise provided in R68-20-7(G).

(3) Nonsynthetic substances prohibited in R68-20-7(D) or (F).

(4) Materials, processes, or techniques prohibited in R68-20-6(F).

(C) Synthetic substances allowed for use in organic crop production:

(1) As algicides, disinfectants and sanitizers, including irrigation system cleaning systems:

(a) Alcohols;

(i) Ethanol;

(ii) Isopropanol;

(b) Chlorine materials – Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act;

(i) Calcium hypochlorite;

(ii) Chlorine dioxide;

(iii) Sodium hypochlorite;

(c) Hydrogen peroxide;

(d) Soap-based algicides/demossers.

(2) As herbicides, weed barriers, as applicable;

(a) Herbicides, soap-based - for use in farmstead maintenance (roadways, ditches, right of ways, building perimeters) and ornamental crops;

(b) Mulches;

(i) Newspaper or other recycled paper, without glossy or colored inks;

(ii) Plastic mulch and covers (petroleum-based other than polyvinyl chloride (PVC));

(3) As compost feedstocks - Newspapers or other recycled paper, without glossy or colored inks;

(4) As animal repellents - Soaps, Ammonium - for use as a large animal repellent only, no contact with soil or edible portion of crop;

(5) As insecticides (including acaricides or mite control);

(a) Ammonium carbonate - for use as bait in insect traps only, no direct contact with crop or soil;

(b) Boric acid - structural pest control, no direct contact with organic food or crops;

(c) Elemental sulfur;

(d) Lime sulfur - including calcium polysulfide, fungicides, or insecticides if no alternatives;

(e) Oils, horticultural - as dormant, suffocating, and summer oils;

(f) Petroleum-based oils - on woody plants for dormant and summer pest control. A petroleum-based material allowed as an insecticide is prohibited for use as a herbicide. Aromatic petroleum solvents as a subclass of petroleum-based oils are prohibited;

(g) Soaps, insecticidal;

(h) Sticky traps/barriers;

(6) As insect attractants - pheromones;

(7) As rodenticides;

(a) Sulfur dioxide - underground rodent control only (smoke bombs);

(b) Vitamin D3;

(8) As plant disease control;

(a) Coppers, fixed - copper hydroxide, copper oxide, copper oxychloride. Includes products exempted from EPA tolerance. Copper-based materials shall be managed in a way that prevents excessive accumulation in the soil and shall not be used as herbicides;

(b) Copper sulfate - Substance shall be used in a manner that minimizes accumulation of copper in the soil;

(c) Hydrated lime - not permitted for soil application or to cauterize mutilations or deodorize animal wastes;

(d) Hydrogen peroxide;

(e) Oils, horticultural, as dormant, suffocating, and summer oils, insecticides only;

(f) Petroleum-based oils - Aromatic petroleum solvents as a subclass of petroleum-based oils are prohibited;

(g) Potassium bicarbonate;

(h) Elemental sulfur.

(9) As plant or soil amendments;

(a) Aquatic Plant Extracts (other than hydrolyzed) - Extraction process is limited to the use of Potassium Hydroxide or Sodium Hydroxide; solvent amount used is limited to that amount necessary for extraction;

(b) Humic acids - naturally occurring deposits, water and alkali extracts only;

(c) Lignin sulfonate - chelating agent, dust suppressant, floatation agent;

(d) Micronutrients - not to be used as a defoliant, herbicide, or desiccant. Those made from nitrates or chlorides are not allowed. Soil deficiency shall be documented by soil or tissue test;

(i) Soluble boron products;

(ii) Sulfates, carbonates, oxides, or silicates of zinc, iron, magnesium, manganese, molybdenum, selenium, and cobalt;

(e) Liquid fish products - can be pH adjusted with sulfuric, citric or phosphoric acid. The amount of acid used shall not exceed the minimum needed to lower the pH to 3.5;

(f) Vitamins, B1, C, and E.

(10) As floating agents in post harvest handling;

(a) Lignin sulfonate;

(b) Sodium silicate - for tree fruit and fiber processing;

(11) Synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with a synthetic substance listed in this section and used as an active ingredient in accordance with any limitations on the use of such synthetic substances - EPA List 4 - Inerts of Minimal Concern.

(D) Nonsynthetic substances prohibited for use in organic crop production;

(1) Ash from manure burning;

(2) Arsenic;

(3) Lead salts;

(4) Sodium fluoaluminate (mined);

(5) Strychnine;

(6) Tobacco dust.

(E) Synthetic substances allowed for use in organic livestock production in accordance with any restrictions specified in this chapter and chapters R68-20-3 and R68-20-5.

(1) As disinfectants, sanitizers, and medical treatments as applicable;

(a) Alcohols;

(i) Ethanol - disinfectant and sanitizer only, prohibited as a feed additive;

(ii) Isopropanol - disinfectant only;

(b) Aspirin - approved for health care use to reduce inflammation;

(c) Chlorine materials - disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

(i) Calcium hypochlorite;

(ii) Chlorine dioxide;

(iii) Sodium hypochlorite;

(d) Chlorohexidine - Allowed for surgical procedures conducted by a veterinarian. Allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness;

(e) Electrolytes - without antibiotics;

(f) Glucose;
 (g) Glycerin - allowed as a livestock teat dip, shall be produced through the hydrolysis of fats or oils.;

(h) Iodine;

(i) Hydrogen peroxide;

(j) Magnesium sulfate;

(k) Parasiticides - Ivermectin - Prohibited in slaughter stock. Allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided for in R68-20-6 for 90 days following treatment. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic;

(l) Phosphoric acid - allowed as an equipment cleaner;

(m) Vaccines and biologic;

(2) As topical treatment, external parasiticide or local anesthetic as applicable;

(a) Iodine;

(b) Lidocaine - as a local anesthetic. Use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals;

(c) Lime, Hydrated - (Bordeaux mixes);

(d) Mineral Oil - for topical use and as a lubricant;

(e) Procaine - as a local anesthetic, use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals;

(f) Copper sulfate;

(3) As feed supplements - Milk Replacers - without antibiotics, as emergency use only. No non-milk products or products from bovine somatotropin (BST)- treated animals;

(4) As feed additives;

(a) Trace minerals, including;

(i) Copper sulfate;

(ii) Magnesium sulfate;

(b) Vitamins - accepted for enrichment or fortification.

Limited to those approved by the FDA for livestock use;

(c) As fillers and excipients.

(F) Nonsynthetic substances prohibited for use in organic livestock production: Livestock slaughter by-products, including blood, meat, and bone meal as feed for all mammals and poultry.

(G) Nonagricultural (non-organic) substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic (specified ingredients)."

The following nonagricultural substances may be used only in accordance with any restrictions specified in this chapter and chapters R68-20-3(E) and R68-20-6.

(1) Non-synthetics allowed;

(a) Agar-agar;

(b) Acids;

(i) Alginate;

(ii) Citric - produced by microbial fermentation of carbohydrate substances;

(iii) Lactic;

(c) Baking powder - aluminum-free;

(d) Bentonite;

(e) Calcium carbonate;

(f) Calcium chloride;

(g) Carrageenan;

(h) Cornstarch (native);

(i) Dairy cultures - non-EM;

(j) Diatomaceous earth - food filtering aid only;

(k) Enzymes - shall be derived from edible, nontoxic plants, nonpathogenic fungi, or nonpathogenic bacteria;

(l) Gums - Water extracted only (arabic, guar, locust bean, carob bean);

(m) Kaolin;

(n) Kelp - for use only as a thickener and dietary supplement;

(o) Lecithin - unbleached;

(p) Nitrogen - Oil-free grades;

(q) Oxygen - Oil-free grades;

(r) Pectin (high-methoxy);

(s) Perlite - for use only as a filter aid in food processing;

(t) Potassium chloride;

(u) Potassium iodide;

(v) Sodium bicarbonate;

(w) Sodium carbonate;

(x) Yeast - nonsynthetic, non-EM;

(i) Autolysate;

(ii) Bakers;

(iii) Brewers;

(iv) Nutritional;

(v) Smoked - growth on petrochemical substrate and sulfite waste liquor prohibited. Nonsynthetic smoke flavoring process shall be documented;

(2) Synthetics allowed;

(a) Alginates;

(b) Ammonium bicarbonate - for use only as a leavening agent;

(c) Ammonium carbonate - for use only as a leavening agent;

(d) Ascorbic acid;

(e) Calcium citrate;

(f) Calcium hydroxide;

(g) Calcium phosphates (monobasic and dibasic);

(h) Carbon dioxide;

(i) Chlorine materials - disinfecting and sanitizing food contact surfaces, except that residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act;

(1) Calcium hypochlorite;

(2) Chlorine dioxide;

(3) Sodium hypochlorite;

(j) Ethylene - allowed for post harvest ripening of tropical fruit;

(k) Ferrous sulfate - for iron enrichment or fortification of foods when required by regulation or recommended (independent organization);

(l) Glycerides (mono and di) - for use only in drum drying of food;

(m) Glycerin - produced by hydrolysis of fats and oils;

(n) Hydrogen peroxide;

(o) Lecithin - bleached;

(p) Magnesium carbonate - for use only in agricultural products labeled "made with organic (specified ingredients)," prohibited in agricultural products labeled "organic";

(q) Magnesium chloride - derived from sea water;

(r) Magnesium stearate - for use only in agricultural products labeled "made with organic (specified ingredients)," prohibited in agricultural products labeled "organic";

(s) Magnesium sulfate;

(t) Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods;

(u) Ozone;

(v) Pectin (low-methoxy);

(w) Phosphoric acid - cleaning of food-contact surfaces and equipment only;

(x) Potassium acid tartrate;

(y) Potassium tartrate made from tartaric acid;

(z) Potassium carbonate;

(aa) Potassium citrate;

(bb) Potassium hydroxide - prohibited for use in lye peeling of fruits and vegetables;

(cc) Potassium iodide - for use only in agricultural products labeled "made with organic (specified ingredients)," prohibited in agricultural products labeled "organic";

(dd) Potassium phosphate - for use only in agricultural products labeled "made with organic (specific ingredients)," prohibited in agricultural products labeled "organic";

(ee) Silicon dioxide;

(ff) Sodium citrate;

(gg) Sodium hydroxide - prohibited for use in lye peeling of fruits and vegetables;

(hh) Sodium phosphates - for use only in dairy foods;

(ii) Tocopherols - derived from vegetable oil when rosemary extracts are not a suitable alternative;

(jj) Xanthan gum;

(H) Non-organically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic ingredients may be used in accordance with any restrictions specified in R68-20-3(E) and R68-20-6.

R68-20-8. Certification and Re-certification Requirements.

(A) General requirements for certification.

A person seeking to receive or maintain organic certification under this rule shall:

(1) Comply with the rule and applicable organic production and handling requirements of this chapter;

(2) Establish, implement, and update annually an organic production, handling, or livestock plan that is submitted to an accredited certifying agent as described in R68-20-4(B), R68-20-5(A) or R68-20-6(B);

(3) Permit on-site inspections with complete access to the production or handling operation, including non-certified areas and structures, by the certifying agent as described in R68-20-8(D);

(4) Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow an authorized UDAF or the certifying agent access to such records during normal business hours for review and copying to determine compliance with the rule.

(5) Submit the applicable fees charged by the certifying agent; and

(6) Immediately notify the certifying agent concerning any:

(a) Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and

(b) Change in a certified operation or any portion of a certified operation that may affect its compliance with this rule.

(B) Application for Certification.

A person seeking certification of a production or handling operation under this subpart shall submit a request for certification to a certifying agent. The request shall include the following information:

(1) An organic production or handling system plan, as described in R68-20-4(A);

(2) The name of the person completing the application; the applicant's business name, address, and telephone number; and, when the applicant is a corporation, the name, address, and telephone number of the person authorized to act on the applicant's behalf.

(3) The name(s) of any organic certifying agent(s) to which application has previously been made, the year(s) of application, and the outcome of the application(s) submission, including a copy of any notification of noncompliance or denial of certification issued to the applicant for certification and a description of the actions taken by the applicant to correct the deficiencies noted in the notification of noncompliance, including evidence of such correction; and

(4) Other information necessary to determine compliance with this rule.

(C) Review of application.

(1) Upon acceptance of an application for certification a certifying agent shall:

(a) Review the application to ensure completeness;

(b) Determine by a review of the application materials whether the applicant appears to comply or may be able to comply with the applicable requirements of this chapter;

(c) Verify that an applicant who previously applied to another certifying agent and received a notification of noncompliance, has submitted documentation to support the correction of any deficiencies identified in such notification; and

(d) Schedule an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals that the production or handling operation may be in compliance with this rule.

(2) The certifying agent shall communicate to the applicant its findings on the review of application materials specified in R68-20-8(A).

(3) The applicant may withdraw its application at any time. An applicant who withdraws its application shall be liable for the costs of services provided up to the time of withdrawal of its application. An applicant that voluntarily withdrew its application prior to the issuance of a notice of noncompliance will not be issued a notice of noncompliance. Similarly, an applicant that voluntarily withdrew its application prior to the issuance of a notice of certification denial will not be issued a notice of certification denial.

(D) On-site inspections.

(1) A certifying agent shall conduct an initial on-site inspection of each production unit, facility, and site that is included in an operation for which certification is requested and an on-site inspection of each certified operation annually thereafter, for the purpose of determining whether to approve the request for certification or whether the certification of the operation shall continue.

(2) A certifying agent may conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with this rule.

(3) UDAF may require that additional inspections be performed by the certifying agent for the purpose of determining compliance with this rule.

(4) Additional inspections may be announced or unannounced at the discretion of the certifying agent or as required by UDAF.

(5) Scheduling. The initial on-site inspection shall be conducted within a reasonable time following a determination that the applicant appears to comply or may be able to comply with this rule. On-site inspections shall be conducted when the applicant or an authorized representative of the applicant who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the applicable provisions of this chapter can be observed, except that this requirement does not apply to unannounced on-site inspections.

(6) Verification of information. The on-site inspection of an operation shall verify:

(a) The operation's compliance or capability to comply with this rule;

(b) That the information, including the organic production or handling system plan, provided in accordance with R68-20-4(B), R68-20-5(A) or R68-20-6(B) and R68-20-8(A) and (G), accurately reflects the practices used or to be used by the applicant for certification or by the certified operation;

(c) That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the certifying agent, may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples.

(7) Exit interview. The inspector shall conduct an exit interview with an authorized representative of the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection. The inspector shall also address the need for any additional information as well as any issues of concern.

(E) Approval of application for certification.

(1) Within a reasonable time after completion of the initial on-site inspection, a certifying agent shall review the on-site inspection report, the results of any analysis for substances conducted, and any additional information requested from or supplied by the applicant. If the certifying agent determines that the organic system plan and all procedures and activities of the applicant's operation are in compliance with this rule and that the applicant is able to conduct operations in accordance with the plan, the agent shall approve the application for certification. The approval may include restrictions as a condition of continued certification.

(2) The certifying agent shall issue a certificate of organic operation which specifies the:

(a) Name and address of the certified operation;

(b) Effective date of certification;

(c) Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and

(d) Name, address, and telephone number of the certifying agent.

(3) Once certified, a production or handling operation's organic certification continues in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, or UDAF.

(F) Denial of application for certification.

(1) When the certifying agent has reason to believe, based on a review of the information specified in R68-20-8(C) and (E) of this chapter, that an applicant for certification is not able to comply or is not in compliance with this rule, the certifying agent shall provide a written notification of noncompliance to the applicant. When correction of noncompliance is not possible, a notification of noncompliance and a notification of denial of application for certification may be combined in one notification.

(2) Upon receipt of such notification of noncompliance, the applicant may:

(a) Correct deficiencies and submit a description of the corrective actions taken with supporting documentation to the certifying agent;

(b) Correct deficiencies and submit a new application to another certifying agent, provided that the applicant shall include a complete application, the notification of noncompliance received from the first certifying agent, and a description of the corrective actions taken with supporting documentation; or

(c) Submit written information to rebut the noncompliance described in the notification of noncompliance.

(3) After issuance of a notification of noncompliance, the certifying agent shall:

(a) Evaluate the applicant's corrective actions taken and supporting documentation submitted or the written rebuttal, conduct an on-site inspection if necessary, and;

(i) When the corrective action or rebuttal is sufficient for the applicant to qualify for certification, issue the applicant an approval of certification; or

(ii) When the corrective action or rebuttal is not sufficient for the applicant to qualify for certification, issue the applicant a written notice of denial of certification.

(b) Issue a written notice of denial of certification to an applicant who fails to respond to the notification of noncompliance.

(c) Provide notice of approval or denial to UDAF as described in this chapter.

(4) A notice of denial of certification shall state the reason(s) for denial and the applicant's right to:

(a) Reapply for certification as described in R68-20-8(B);

(b) Request mediation pursuant to this rule; or

(c) File an appeal pursuant to this rule.

(5) An applicant for certification who has received a written notification of noncompliance or a written notice of denial of certification may apply for certification again at any time with any certifying agent. When such applicant submits a new application to a certifying agent other than the agent who issued the notification of noncompliance or notice of denial of certification, the applicant for certification shall include a copy of the notification of noncompliance or notice of denial of certification and a description of the actions taken, with supporting documentation, to correct the deficiencies noted in the notification of noncompliance.

(6) A certifying agent who receives a new application for certification, which includes a notification of noncompliance or a notice of denial of certification, shall treat the application as a new

application and begin a new application process, as described in this chapter.

(7) Notwithstanding R68-20-8(A) of this chapter, if a certifying agent has reason to believe that an applicant for certification has willfully made a false statement or otherwise purposefully misrepresented the applicant's operation or its compliance with the certification requirements pursuant to this chapter, the certifying agent may deny certification pursuant to R68-20-8(F) without first issuing a notification of noncompliance.

(G) Re-certification.

(1) To re-certify, a certified operation shall annually submit the following information, as applicable, to the certifying agent:

(a) An updated organic production or handling system plan which includes:

(i) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year; and

(ii) Any additions or deletions to the previous year's organic system plan, intended to be undertaken in the coming year; and

(b) Other information as deemed necessary by the certifying agent to determine compliance with this rule.

(2) Following the receipt of the information specified in R69-20-8(G)(1)(a), the certifying agent shall arrange and conduct an on-site inspection of the certified operation.

(3) If the certifying agent has reason to believe, based on the on-site inspection and a review of the information specified, that a certified operation is not complying with the requirements of this rule, the certifying agent shall provide a written notification of noncompliance to the operation.

(4) If the certifying agent determines that the certified operation is complying with this rule and that any of the information specified on the certificate of organic operation has changed, the certifying agent shall issue an updated certificate of organic operation.

R68-20-9. Compliance.

Unlawful acts specified.

(A) The following acts are prohibited:

(1) The manufacture, sale, or delivery, holding or offering for sale any food that is adulterated or misbranded.

(2) The adulteration or misbranding of any food.

(3) The distribution in commerce of a commodity that is contained in a package or bears a label that does not conform to this rule.

(4) The dissemination of false advertising.

(5) The removal or disposal of detained or embargoed food.

(6) The alteration, mutilation, destruction, obliteration, or removal of the label of any food, if that act is done while the food is held for sale and results in the food being misbranded or adulterated.

(7) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by this rule.

(B) General.

(1) UDAF may inspect and review certified production and handling operations and accredited certifying agents for compliance with the rule.

(2) UDAF may initiate suspension or revocation proceedings, or regulatory action against a certified operation:

(a) When UDAF has reason to believe that a certified operation has violated or is not in compliance with the provisions of the rule.

(b) When a certifying agent fails to take appropriate action to enforce the rule.

(C) Investigation of certified operations.

(1) A certifying agent may investigate complaints of noncompliance with the rule concerning production and handling operations certified as organic by the certifying agent.

(2) A certifying agent shall notify UDAF within 1 working day (8:00 a.m. to 5:00 p.m. Monday through Friday, except holidays) of all compliance proceedings and actions taken pursuant to this rule. Failure to notify UDAF may result in additional regulatory action as provided for by law, which includes: citations, administrative orders, and orders of corrective action.

(3) UDAF may investigate complaints of noncompliance with the rule concerning organic production or handling operations operating in the state.

(D) Noncompliance procedure for certified operations.

(1) Notification. When an inspection, review, or investigation of a certified operation by a certifying agent or UDAF reveals any noncompliance with the rule a written notification of noncompliance shall be given to the certified operation. Such notification shall provide:

(a) A description of each noncompliance;

(b) The facts upon which the notification of noncompliance is based; and

(c) The date by which the certified operation shall rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible.

(2) Resolution. When a certified operation demonstrates that each noncompliance has been resolved, the certifying agent, or UDAF, as applicable, will send the certified operation a written notification of noncompliance resolution.

(3) Regulatory Action. Failure to comply with this rule may result in additional regulatory action as provided for by law, which includes: citations, administrative orders, and orders of corrective action.

(4) Proposed suspension or revocation. When rebuttal is unsuccessful or correction of the noncompliance is not completed within the prescribed time period or is not adequate to demonstrate that each noncompliance has been corrected, the certifying agent or UDAF shall send the certified operation a written notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance. When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of certification may be combined in one notification. The notification of proposed suspension or revocation of certification shall state:

(a) The reasons for the proposed suspension or revocation;

(b) The proposed effective date of such suspension or revocation;

(c) The impact of a suspension or revocation on future eligibility for certification; and

(d) The right to request a hearing pursuant to R51-2-6 or to file an appeal pursuant to R51-2-13.

(5) Willful Violation. Notwithstanding R68-20-9(D)(1), if a certifying agent or UDAF has reason to believe that a certified operation has willfully violated the rule, the certifying agent or UDAF shall send the certified operation a notification of proposed suspension or revocation of certification of the entire operation, or a portion of the operation, as applicable to the noncompliance.

(6) Suspension or revocation.

(a) If the certified operation fails to correct the noncompliance, to resolve the issue through rebuttal or a hearing, or to file an appeal of the proposed suspension or revocation of certification, the certifying agent or UDAF shall send the certified operation a written notification of suspension or revocation.

(b) A certifying agent or UDAF shall not send a notification of suspension or revocation to a certified operation that has requested a hearing pursuant to R51-2-6 or filed an appeal pursuant to R51-2-13.

(7) Ineligibility. A certified operation or a person responsibly connected with an operation whose certification has been revoked will not be eligible to receive certification for a period of not more than 5 years following the date of such revocation, as determined by UDAF.

(E) Hearing.

Any dispute with respect to proposed suspension or revocation of certification under this rule shall, at the request of the applicant for certification or certified operation, be heard by UDAF. A hearing shall be requested in writing to UDAF. The parties involved in the hearing shall have no more than 10 days to reach an agreement following a hearing. If the hearing is unsuccessful, the applicant for certification or certified operation shall have 10 days from termination of the hearing to appeal the certifying agent's decision to the UDAF, pursuant to R51-2-13. Any agreement reached during or as a result of the hearing process shall be in compliance with the rule. UDAF may review any hearing agreement for conformity to the rule.

(F) Exclusion from organic sale.

(1) When residue testing detects prohibited substances at levels that are greater than the estimated national mean of detected residues for specific commodity/pesticide pairs, as demonstrated by USDA's Pesticide Data Program, or unavoidable residual environmental contamination, as determined by UDAF, the agricultural product shall not be sold, labeled, or represented as organically produced. UDAF or the certifying agent may conduct an investigation of the certified operation to determine the cause of the prohibited substance residue.

(2) If test results indicate a specific agricultural product contains pesticide residues or environmental contaminants that exceed the Food and Drug Administration's or the Environmental Protection Agency's regulatory tolerances, the data shall be reported promptly to UDAF.

(G) Emergency pest or disease treatment.

When a prohibited substance is applied to a certified operation due to Federal or State emergency pest eradication or disease treatment program and the certified operation otherwise meets the requirements of this rule, the certification status of the operation shall not be affected as a result of the application of the prohibited synthetic substance, provided that:

(1) Any harvested crop or plant part to be harvested that has contact with a prohibited substance applied as the result of a Federal or State emergency pest eradication or disease treatment

program cannot not be sold, labeled, or represented as organically produced; and

(2) Any livestock that are treated with a prohibited substance applied as the result of a Federal or State emergency pest or disease treatment program or product derived from such treated livestock cannot be sold, labeled, or represented as organically produced, except that:

(a) Milk or milk products may be sold, labeled, or represented as organically produced beginning 12 months following the last date that the dairy animal was treated with the prohibited substance; and

(b) The offspring of gestating mammalian breeder stock treated with a prohibited substance may be considered organic, provided that the breeder stock was not in the last third of gestation on the date that the breeder stock was treated with the prohibited substance.

(H) Embargo.

Embargo and Destruction of Adulterated Food Products Authorized.

(1) The embargo of adulterated food products is authorized under Section 4-5 Utah Code Annotated.

(a) The regulatory authority may place a hold order on food found to be misbranded or 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) 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.

(i) Continuing Violations.

Each day on which a violation occurs, is a separate violation under this rule.

R68-20-10. Fees for Organic Certification.

Fees for Organic Certification Services.

(A) Fees shall be in accordance with the fee schedule in the annual appropriations act passed by the legislature and signed by the Governor. The person, firm, corporation or other organization requesting registration as a producer, handler, processor or accreditation agency or requesting inspection or laboratory services shall pay such fees. The person, firm, corporation or other organization selling certified organic products in the state shall pay gross sales fees. All fees are payable to Utah Department of Agriculture and Food.

(B) Registration of producers, handlers, processors or combinations thereof. Annual registration is required for all producers, handlers, processors or combinations thereof and shall be paid by January 1st each year. Applications for registration may be obtained from Utah Department of Agriculture and Food and submitted with the annual fees.

(C) Registration of accreditation agencies. Annual registration is required for all accreditation agencies and shall be paid by January 1st each year. Applications for registration may be obtained from Utah Department of Agriculture and Food and submitted with the annual fees.

(D) Gross sales fees. Payment of annual gross sales fees shall accompany the annual registration application and fees and shall be based on the previous year's gross sales.

**KEY: inspections
2000**

- 4-2-2(i)(j)
- 4-3-2
- 4-4-2
- 4-5-17(i)
- 4-9-2
- 4-11-3
- 4-12-3
- 4-14-6(5)
- 4-16-3
- 4-32-7(7)(a)(ii)
- 4-37-109(2)

SUMMARY OF THE RULE OR CHANGE: In Section R156-1-102, an addition is made to the definition of "cancel" to include rescinding a license issued to an applicant whose check has been dishonored. In Section R156-1-109, changes to rule citations are made as to when the Director and Bureau Manager act as the presiding officer. In Section R156-1-308a, boxing licensee expiration is changed to even years. In Section R156-1-308c, changes the renewal deadline to 30 days before the expiration date of a license. In Section R156-1-308d, addition is made that conditional renewal of licensure is granted pending the outcome of an audit to examine a licensee's required demonstration of financial responsibility prior to renewal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will incur minimal costs to reprint the rules once the proposed changes are made effective. Any costs incurred will be covered in the Division's current budget. The Department and Division has approximately 120 application checks dishonored every year. Without the proposed changes with respect to dishonored checks, a formal hearing would be required to cancel the license of an applicant with a dishonored check. The hearing costs would include \$75 for a court reporter, \$60 per board member, the time of an Assistant Attorney General to prosecute the case, and the time of the Division and Department staff (Administrative Law Judge, Bureau Manager and Division Director). As a result of the proposed changes regarding dishonored checks, the Division will not incur the expenses identified above as the process to rescind a license that has been paid for with a dishonored check will be a paper process only. Changing to a two-year renewal cycle for boxing licensees will reduce the Division's revenue from renewal fees by 50%, or approximately \$750 (30 licensees at \$25). With respect to changes made regarding a conditional renewal of licensure, the Division will use existing resources and anticipates no cost or savings as a result of the proposed rule change.

❖LOCAL GOVERNMENTS: Proposed rules do not apply to local government.

❖OTHER PERSONS: As a result of the proposed changes regarding dishonored checks, the Division anticipates unknown savings to applicants who pay with a dishonored check because they will not have to hire an attorney for representation at a formal hearing. With respect to changing the boxing renewal date from every year to every two years, boxing licensees will see a savings of \$25 per licensee, or \$750 (30 licensees at \$25) in the aggregate. With respect to changes made regarding a conditional renewal of licensure, the applicant will pay the same renewal fee as though the license were being unconditionally renewed on or before the expiration date, so no costs or savings are anticipated for licensee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are anticipated. Only savings to various groups as identified above.

◆ **Commerce, Occupational and Professional Licensing** ◆

R156-1

General Rules of the Division of Occupational and Professional Licensing

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 23118
FILED: 08/29/2000, 13:06
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Division needs to update timing of renewal process. Proposed changes provide a mechanism for the Division to cancel a license if the licensure fee is made by a personal check which is dishonored. Proposed changes amend the references under the presiding officer section to reflect changes that have been made in the Division's Administrative Procedures Act Rules (R156-46b). Proposed amendments change the renewal date for a boxing licensee to every two years in accordance with statute changes made during the 2000 legislative session (S.B. 135). Proposed changes enable the Division to issue conditional licenses upon renewal without an expiration date pending the completion of a financial responsibility review and the decision is made to renew, deny, or partially deny the renewal application. This enables the licensee to continue business uninterrupted after the expiration date and it enables the division to perform audits for which there is not sufficient time between the date the renewals are received and the expiration date occurs. (DAR Note: S.B. 135 is found at 2000 Utah Laws 77, and was effective May 1, 2000.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this proposed amendment is to simplify the procedure for rescinding a license paid for by a check which is subsequently returned as dishonored after issuance of the license. Although the licensing statutes make payment of a fee a requirement, under the current rules it is necessary to convene a formal hearing to cancel a license issued prior to notice of dishonor of the payment. The amendment also changes the license renewal deadline to 30 days and alters the renewal date for boxing licensees to coordinate with the changes in the statutes governing the profession enacted during the last legislative session. Approximately 120 checks are dishonored each year. A formal hearing under the current rules would require a \$75 appearance fee to the court reporter, plus a \$60 per diem for each board member attending the hearing. Additionally, a hearing would require the presence of an Assistant Attorney General prosecutor, an Administrative Law Judge, and Division staff members. Adoption of this proposed amendment would have a positive fiscal impact on the state budget by reducing expenses for unnecessary hearings and increasing the man hours available to service citizens in other areas. These proposed amendments would have no impact on local governments or the regulated professionals, except for elimination of any costs associated with a formal hearing for canceling a license for non-payment. Additionally, the change in boxing licenses from one year to two-year terms will result in a savings to the regulated professional of \$12.50 per year--Douglas C. Borba

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 RULE TO:
Laura Poe at the above address, by phone at (801) 530-6789, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.lpoe@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rules of the Division of Occupational and Professional Licensing.
R156-1-102. Definitions.

In addition to the definitions in Title 58, as used in Title 58 or these rules:

(1) "Active and in good standing" means a licensure status which allows the licensee full privileges to engage in the practice of the occupation or profession subject to the scope of the licensee's license classification.

(2) "Cancel" or "cancellation" means nondisciplinary action by the division to rescind, repeal, annul, or void a license issued in error. Such action includes rescinding a license issued to an applicant whose payment of the required application fee is dishonored when presented for payment.

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R156-1-109. Presiding Officers.

In accordance with Subsection 63-46b-2(1)(h) and Section 58-1-109, except as otherwise specified in writing by the director, the designation of presiding officers is clarified or established as follows:

(1) The division enforcement counsel is designated as the presiding officer for issuance of notices of agency action and for issuance of notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action, provided that if the division enforcement counsel is unable to so serve for any reason, the assistant director is designated as the alternate presiding officer.

(2) Subsections 58-1-109(2) and 58-1-109(4) are clarified with regard to defaults as follows. Except as otherwise specified in writing by the director, the department administrative law judge is designated as the presiding officer for entering an order of default against a party, for conducting any further proceedings necessary to complete the adjudicative proceeding, and for issuing a recommended order to the director determining the discipline to be imposed, licensure action to be taken, relief to be granted, etc.

(3) Except as otherwise specified in writing by the director, the presiding officer for informal adjudicative proceedings initiated by a request for agency action are as follows:

(a) Director. The director shall be the presiding officer for the informal adjudicative proceedings described in Subsections R156-46b-202(1)(g), ~~([j]i), (k), (l), (m), (p), (r) and (u)~~ (o), (q), and (t).

(b) Bureau managers. The bureau manager over the occupation or profession involved shall be the presiding officer for the informal adjudicative proceedings described in Subsections R156-46b-202(1)(a) through (f), (h), ~~([i]j), (k), (q), (s), and (t)~~ (p), (r) and (s).

(i) At the direction of the a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician provided the format of the order has been approved in advance by the bureau manager and provided the caption "FOR THE BUREAU MANAGER" immediately precedes the licensing technician's signature.

(c) Contested citation hearing officer. The contested citation hearing officer designated in writing by the director shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(~~n~~m).

(d) Uniform Building Code Commission. The Uniform Building Code Commission shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(~~o~~n).

(4) Except as otherwise specified in writing by the director, the presiding officer for informal adjudicative proceedings initiated by a notice of agency action shall be the division director.

R156-1-308a. Renewal Dates.

The following renewal dates are established by license classification in accordance with the Subsection 58-1-308(1):

TABLE
RENEWAL DATES

(1) Acupuncturist	May 31	even years	(49) Occupational Therapy Assistant	May 31	odd years
(2) Advanced Practice Registered Nurse	January 31	even years	(50) Optometrist	September 30	even years
(3) Animal Euthanasia Agency	May 31	odd years	(51) Osteopathic Physician and Surgeon	May 31	even years
(4) Alternate Dispute Resolution Provider	September 30	even years	(52) Out of State Mail Order Pharmacy	May 31	odd years
(5) Analytical Laboratory	May 31	odd years	(53) Pharmaceutical Administration Facility	May 31	odd years
(6) Architect	May 31	even years	(54) Pharmaceutical Dog Trainer	May 31	odd years
(7) Audiologist	May 31	odd years	(55) Pharmaceutical Manufacturer	May 31	odd years
(8) Boxing Licensee	December 31	every even years	(56) Pharmaceutical Researcher	May 31	odd years
(9) Branch Pharmacy	May 31	odd years	(57) Pharmaceutical Teaching Organization	May 31	odd years
(10) Building Inspector	July 31	odd years	(58) Pharmaceutical Wholesaler/Distributor	May 31	odd years
(11) Burglar Alarm Security	July 31	even years	(59) Pharmacist	May 31	odd years
(12) C.P.A. Firm	September 30	even years	(60) Pharmacy Technician	May 31	odd years
(13) Certified Shorthand Reporter	May 31	even years	(61) Physical Therapist	May 31	odd years
(14) Certified Dietitian	September 30	even years	(62) Physician Assistant	May 31	even years
(15) Certified Nurse Midwife	January 31	even years	(63) Physician and Surgeon	January 31	even years
(16) Certified Public Accountant	September 30	even years	(64) Plumber		
(17) Certified Registered Nurse Anesthetist	January 31	even years	Apprentice, Journeyman, Residential Apprentice, Residential Journeyman	July 31	even years
(18) Certified Social Worker	September 30	even years	(65) Podiatric Physician	September 30	even years
(19) Chiropractic Physician	May 31	even years	(66) Pre Need Funeral Arrangement Provider	May 31	even years
(20) Clinical Social Worker	September 30	even years	(67) Pre Need Funeral Arrangement Sales Agent	May 31	even years
(21) Construction Trades Instructor	July 31	odd years	(68) Private Probation Provider	May 31	odd years
(22) Contractor	July 31	odd years	(69) Professional Counselor	September 30	even years
(23) Controlled Substance Precursor Distributor	May 31	odd years	(70) Professional Employer Organization	September 30	every year
(24) Controlled Substance Precursor Purchaser	May 31	odd years	(71) Professional Engineer	December 31	even years
(25) Cosmetologist/Barber	September 30	odd years	(72) Professional Land Surveyor	December 31	even years
(26) Cosmetology/Barber School	September 30	odd years	(73) Professional Structural Engineer	December 31	even years
(27) Deception Detection	July 31	even years	(74) Psychologist	September 30	even years
(28) Dental Hygienist	May 31	even years	(75) Radiology Practical Technician	May 31	odd years
(29) Dentist	May 31	even years	(76) Radiology Technologist	May 31	odd years
(30) Electrician			(77) Recreational Therapy Technician, Specialist, Master Specialist	May 31	odd years
Apprentice, Journeyman, Master, Residential Journeyman, Residential Master	July 31	even years	(78) Registered Nurse	January 31	odd years
(31) Electrologist	September 30	odd years	(79) Respiratory Care Practitioner	September 30	even years
(32) Environmental Health Scientist	May 31	odd years	(80) Retail Pharmacy	May 31	odd years
(33) Factory Built Housing Dealer	September 30	even years	(81) Security Personnel	July 31	even years
(34) Funeral Service Director	May 31	even years	(83) Social Service Worker	September 30	even years
(35) Funeral Service Establishment	May 31	even years	(84) Speech-Language Pathologist	May 31	odd years
(36) Health Care Assistant	November 30	even years	(85) Veterinarian	September 30	even years
(37) Health Facility Administrator	May 31	odd years	(86) Veterinary Pharmaceutical Outlet	May 31	odd years
(38) Hearing Instrument Specialist	September 30	even years			
(39) Hospital Pharmacy	May 31	odd years			
(40) Institutional Pharmacy	May 31	odd years			
(41) Landscape Architect	May 31	even years			
(42) Licensed Practical Nurse	January 31	even years			
(43) Licensed Substance Abuse Counselor	May 31	odd years			
(44) Marriage and Family Therapist	September 30	even years			
(45) Massage Apprentice, Therapist	May 31	odd years			
(46) Naturopath/Naturopathic Physician	May 31	even years			
(47) Nuclear Pharmacy	May 31	odd years			
(48) Occupational Therapist	May 31	odd years			

R156-1-308c. Renewal of Licensure Procedures.

The procedures for renewal of licensure shall be as follows:

(1) The division shall mail a renewal notice to each licensee at least 90 days prior to the expiration date shown on of the licensee's license.

(2) Renewal notices shall be sent by letter deposited in the post office with postage prepaid, addressed to the last address shown on the division's automated license system. Such mailing shall constitute legal notice. It shall be the duty and responsibility of each licensee to maintain a current address with the division.

(3) Renewal notices shall specify the renewal requirements and require that each licensee document or certify that the licensee meets the renewal requirements.

(4) Renewal notices shall specify a renewal application due date at least ~~60~~30 days prior to the expiration date shown on the

licensee's license in order to permit the renewal applications to be processed prior to the expiration of licensure in accordance with Subsection 58-1-308(4).

(5) Renewal notices shall advise each licensee that a license that is not renewed prior to the expiration date shown on the license automatically expires and that any continued practice without a license constitutes a criminal offense under Subsection 58-1-501(1)(a).

(6) Renewal notices shall further advise each licensee that if the licensee fails to return the renewal application to the division or its designee by the renewal application due date, the licensee's license may expire before it is renewed.

(7) Renewal notices shall specify the address or addresses to where the renewal applications should be submitted.

(8) When a renewal application contains multiple parts to be returned to separate addresses, the division shall facilitate proper submission by using, to the extent resources permit, color coded renewal applications with perforated sections and return envelopes.

(9) Licensees licensed during the last four months of a renewal cycle shall be licensed for a full renewal cycle plus the period of time remaining until the impending renewal date, rather than being required to immediately renew their license.

R156-1-308d. Denial of Renewal of Licensure - Classification of Proceedings - Conditional Renewal During Pendency of Adjudicative Proceedings, Audit or Investigation.

(1) Denial of renewal of licensure shall be classified as a formal adjudicative proceeding under Rule R156-46b.

(2) When a renewal application is denied and the applicant concerned requests a hearing to challenge the division's action as permitted by Subsection 63-46b-3(3)(d)(ii), unless the requested hearing is convened and a final order is issued prior to the expiration date shown on the applicant's current license, the division shall conditionally renew the applicant's license during the pendency of the adjudicative proceeding as permitted by Subsection 58-1-106(8).

(3)(a) When a renewal applicant is selected for audit or is under investigation, the division may conditionally renew the applicant pending the completion of the audit or investigation.

(b) The undetermined completion of a referenced audit or investigation rather than the established expiration date shall be indicated as the expiration date of a conditionally renewed license.

(c) A conditional renewal shall not constitute an adverse licensure action.

(d) Upon completion of the audit or investigation, the division shall notify the renewal applicant whether the applicant's license is unconditionally renewed, denied or partially denied.

(e) A notice of unconditional denial or partial denial of licensure to a conditionally renewed licensee shall include the following:

(i) that the licensee's unconditional renewal of licensure is denied or partially denied and the basis for such action;

(ii) the division's file or other reference number of the audit or investigation;

(iii) that the denial or partial denial of unconditional renewal of licensure is subject to review and a description of how and when such review may be requested;

(iv) that the licensee's conditionally renewed license automatically expires unless the applicant timely requests review; and

(v) that if the licensee timely requests review, the licensee's conditionally renewed license does not expire until an order is issued unconditionally renewing, denying, or partially denying the renewal of the licensee's license.

KEY: diversion programs, licensing, occupational licensing
[March 20,]2000 **58-1-106(1)**
Notice of Continuation June 2, 1997 **58-1-308**



Commerce, Occupational and
Professional Licensing
R156-46b
Division Utah Administrative
Procedures Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23127

FILED: 08/31/2000, 09:11

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Division needed to change a nondisciplinary proceeding which results in cancellation of licensure from a formal to an informal adjudicative proceeding.

SUMMARY OF THE RULE OR CHANGE: In Sections R156-46b-201 and R156-46b-202, proposed changes delete nondisciplinary proceedings resulting in cancellation of licensure from the list of formal adjudicative proceedings and add the proceeding to the informal adjudicative proceedings list.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-46b-1(6) and 58-1-106(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will incur minimal costs to reprint the rules once the proposed changes are made effective. Any costs incurred will be covered in the Division's current budget. The Department and Division has approximately 120 application checks dishonored every year. Without the proposed changes with respect to dishonored checks, a formal hearing would be required to cancel the license of an applicant with a dishonored check. The hearing costs would include \$75 for a court reporter, \$60 per board member, the time of an Assistant Attorney General to prosecute the case, and the time of the Division and Department staff (Administrative Law Judge, Bureau

Manager and Division Director). As a result of the proposed changes regarding dishonored checks, the Division will not incur the expenses identified above as the process to rescind a license that has been paid for with a dishonored check will be a paper process only.

❖LOCAL GOVERNMENTS: Proposed rules do not apply to local governments

❖OTHER PERSONS: As a result of the proposed changes regarding dishonored checks, the Division anticipates unknown savings to applicants who pay with a dishonored check because they will not have to hire an attorney for representation at a formal hearing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are anticipated. Only savings to various groups as identified above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this proposed amendment is to delete non-disciplinary proceedings to cancel a license from the list of formal adjudicative proceedings and add such a proceeding to the informal list. Approximately 120 checks are dishonored each year. A formal hearing under the current rules would require a \$75 appearance fee to the court report, plus a \$60 per diem for each board member attending the hearing. Additionally, a hearing would require the presence of an Assistant Attorney General prosecutor, an Administrative Law Judge, and Division staff members. Adoption of this proposed amendment would have a positive fiscal impact on the state budget by reducing expenses for unnecessary hearings and increasing the man hours available to service citizens in other areas. These proposed amendments would have no impact on local governments or the regulated professionals, except for elimination of any costs associated with a formal hearing for canceling a license for nonpayment-Douglas C. Borba

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 RULE TO:

Laura Poe at the above address, by phone at (801) 530-6789, by FAX at (801) 530-6511, or by Internet E-mail at brdopl.lpoe@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: A. Gary Bowen, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-46b. Division Utah Administrative Procedures Act Rules.
R156-46b-201. Formal Adjudicative Proceedings.**

(1) The following adjudicative proceedings initiated by a request for agency action are classified as formal adjudicative proceedings:

- (a) denial of application for renewal of licensure;
- (b) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(5);
- (c) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(b);
- (d) special appeals board held in accordance with Section 58-1-402;
- (e) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, in which the claimant is precluded from obtaining the required civil judgment or administrative order against the original contractor involved in the claim because the original contractor filed bankruptcy; and
- (f) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as a formal adjudicative proceeding.

(2) The following adjudicative proceedings initiated by a Notice of Agency Action are classified as formal adjudicative proceedings:

- (a) disciplinary proceedings which result in the following sanctions:
 - (i) revocation of licensure;
 - (ii) suspension of licensure;
 - (iii) restricted licensure;
 - (iv) probationary licensure;
 - (v) issuance of a cease and desist order except when imposed by citation or by an order in a contested citation hearing;
 - (vi) administrative fine except when imposed by citation or by an order in a contested citation hearing; and
 - (vii) issuance of a public reprimand[?]; and
- (b) ~~nondisciplinary proceedings which result in cancellation of licensure, and~~
- ~~(c)]unilateral modification of a disciplinary order.~~

R156-46b-202. Informal Adjudicative Proceedings.

(1) The following adjudicative proceedings initiated by a request for agency action are classified as informal adjudicative proceedings:

- (a) approval or denial of application to take a licensure examination;
- (b) disqualification of examination results for cheating on examination;
- (c) request for rescoring of examination;
- (d) approval of application for initial licensure, renewal or reinstatement of licensure, or relicensure;
- (e) denial of application for initial licensure or relicensure;
- (f) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(a);
- (g) denial of application for reinstatement of restricted, suspended, or probationary licensure during the term of the restriction, suspension, or probation;
- (h) approval or denial of application for inactive or emeritus licensure status;

(i) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, except those in which the claimant is precluded from obtaining the required civil judgment or administrative order against the original contractor involved in the claim because the original contractor filed bankruptcy;

(j) approval or denial of request to surrender licensure;

(k) approval or denial of request for entry into diversion program under Section 58-1-404;

(l) matters relating to diversion program;

(m) contested citation hearing held in accordance with Subsection 58-55-503(4)(b);

(n) board of appeal held in accordance with Subsection 58-56-8(3);

(o) approval or denial of request for modification of disciplinary order;

(p) informal advice determining the applicability of statute, rule or order to specified circumstances;

(q) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as an informal adjudicative proceeding;

(r) approval or denial of request for correction of procedural or clerical mistakes;

(s) approval or denial of request for correction of other than procedural or clerical mistakes; and

(t) all other requests for agency action not specifically classified as formal adjudicative proceedings in Subsection R156-46b-201(1).

(2) The following adjudicative proceedings initiated by a Notice of Agency Action are classified as informal adjudicative proceedings:

(a) ~~[A]disciplinary proceeding [initiated by a Notice of Agency Action issued pursuant to a Petition]seeking exclusively the issuance of a private reprimand[is classified as an informal adjudicative proceeding]; and~~

(b) nondisciplinary proceeding which results in cancellation of licensure.

KEY: administrative procedure, government hearings, occupational licensing

~~[July 6,]2000~~

Notice of Continuation October 22, 1996

63-46b-1(6)

58-1-106(1)



Commerce, Real Estate
R162-8
Prelicensing Education

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 23128
FILED: 08/31/2000, 10:54
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To permit prelicensing education providers to use adjunct instructors to teach portions of the prelicensing curriculum. It is anticipated that education will be more available. It also simplifies the requirements for certification as an instructor.

SUMMARY OF THE RULE OR CHANGE: The change would allow an instructor to be certified to teach specific sections of the prelicensing curriculum and not be required to be certified to teach the entire program. The instructor would need to audit only those sections of the curriculum he intends to teach.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2-5.5

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** It is anticipated that there will be no additional cost to the State budget. While streamlining and clarifying the certification process, the revisions will be financially neutral because more people will be able to certify but it will take less staff time to process each application. It is anticipated that we can provide more certifications (and therefore more educational opportunities) with current resources.

❖**LOCAL GOVERNMENTS:** It is anticipated that there will be no additional cost to the local government. While streamlining and clarifying the certification process, the revisions will be financially neutral because more people will be able to certify but it will take less staff time to process each application. It is anticipated that we can provide more certifications (and therefore more educational opportunities) with current resources.

❖**OTHER PERSONS:** There will probably be a cost savings to the real estate schools who can certify instructors to teach modules and not the entire program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Real estate instructor candidates will be required to make application to become certified. The application fee will be \$15.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of these amendments is to allow for the use of adjunct teachers (e.g., an attorney teaching legal portions of the curriculum) without being required to qualify to teach the entire program. The rules further extend to schools and instructors the same fitness qualification requirements now utilized to determine fitness of applicants for licensure as a real estate sales agent or broker.

The proposed amendments will have no fiscal impact upon the state budget and will not result in any costs to local governments. Those seeking certification to become instructors will have to file an application bearing a \$15 application fee. The general public will not be affected by the amendments.

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

Commerce
Real Estate

Second Floor, Heber Wells Building
160 East 300 South
PO Box 146711
Salt Lake City, UT 84114-6711, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Karen Post at the above address, by phone at (801) 530-6753, by FAX at (801) 530-6749, or by Internet E-mail at kpost@br.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Theodore "Ted" Boyer, Jr., Director

R162. Commerce, Real Estate.

R162-8. Prelicensing Education.

R162-8-1. ~~[School]~~Definitions.

8.1.1 For the purposes of this rule, "school" includes:

8.1.1.1 Any college or university accredited by a regional accrediting agency which is recognized by the United States Department of Education;

8.1.1.2 Any community college, vocational-technical school, state or federal agency or commission;

8.1.1.3 Any nationally recognized real estate organization, any Utah real estate organization, or any local real estate organization which has been approved by the Real Estate Commission;

8.1.1.4 Any proprietary real estate school.

8.1.2 For the purposes of this rule, "applicant" shall include school directors, school owners and pending instructors.

R162-8-2. Determining Fitness for School Certification.

8.2 In order to be certified as a real estate school, the school directors and owners of the school must have integrity and be honest, truthful, reputable and competent. The determination of whether an applicant possesses these qualifications will be made by the Division, with the concurrence of the Commission.

8.2.1 In determining fitness for certification, the Division and Commission will consider information which shall include the following:

(a) whether the applicant has had a license to practice in the real estate profession, or any other regulated profession or occupation, denied, restricted, suspended, or revoked or subjected to any other disciplinary action by this or another jurisdiction.

(b) whether the applicant has been permitted to resign or surrender a real estate license or any other professional license or has ever allowed a license to expire while the applicant was under investigation by, or while action was pending against the applicant by a real estate licensing or any other regulatory agency.

(c) whether any action is pending against the applicant by any real estate licensing or other regulatory agency.

(d) whether the applicant is currently under investigation for, or charged with, or has ever been convicted of or pled guilty or no contest to, or entered a plea in abeyance to, a misdemeanor or felony.

(e) whether the applicant has ever been placed on probation or ordered to pay a fine or restitution in connection with any criminal offense or a licensing action.

(f) whether a civil judgment has ever been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.

(g) whether restitution ordered by a court in a criminal conviction has been fully satisfied;

(h) whether the probation in a criminal conviction or a licensing action has been completed and fully served; and

(i) whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a certification, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

R162-8-~~[2]~~3. School Application for Certification.

8.~~[2]~~3 A school offering prelicensing education must be certified by the Division of Real Estate before providing any education. Each school requesting approval of an educational program designed to meet the prelicensing education requirements must make application for approval on the form prescribed by the Division. The application must include the application fee, as authorized by Section 61-2-9(5)(d), and the following information which will be used in determining the school's eligibility for approval:

8.~~[2]~~3.1 Name, phone number and address of the school, school director, and all owners of the school;

~~[8.2.1.1. Attestation to upstanding moral character by individuals who are school directors or owners of the school, and whether any individual:~~

~~(a) has had a license to practice in the real estate profession, or any other profession or occupation, denied, restricted, suspended, or revoked;~~

~~(b) has been permitted to resign or surrender a real estate license, or has ever allowed a real estate license to expire while the individual was under investigation, or while action was pending against the individual by a real estate licensing or any other agency;~~

~~(c) has any action now pending by any real estate licensing or other agency;~~

~~(d) is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses. Two or more motor vehicle offenses such as driving while impaired or intoxicated must be disclosed;~~

~~(e) has ever been placed on probation in connection with any criminal offense or a licensing action.]~~

8.~~[2]~~3.2 A description of the type of school and a description of the school's physical facilities;

8.~~[2]~~3.2.1 All courses must be taught in an appropriate classroom facility and not in any private residence, except for courses approved for specific home-study purposes.

8.~~[2]~~3.3 A comprehensive course outline including a description of the course, the length of time to be spent on each subject area broken into class periods, and a minimum of three to

five learning objectives for every three hours of classroom time, and applicable application fee;

8.[2]3.3.1 All courses of study will meet the minimum standards set forth in the State of Utah Standard Course Outline provided for each approved course. The school may alter the sequence of presentation of the required topics.

8.[2]3.3.2 All courses of study will meet the minimum hourly requirement of that course. A credit hour is defined as 50 minutes of supervised contact by a certified instructor within a 60 minute time period. A 10 minute break will be given for each 50 minutes in class. Education credit will be limited to a maximum of eight credit hours per day. The limitation applies only to the credit a student may receive and is not intended to limit the number of classroom hours offered.

8.[2]3.4 A list of each certified instructor and adjunct instructor the school intends to use and the instructor certification number which has been issued by the Division.

8.[2]3.4.1 A college or university may use any faculty member to teach an approved course provided the instructor demonstrates to the satisfaction of the Division academic training or experience qualifying him to teach the course.

8.[2]3.4.2 The school shall submit the name of any guest lecturer and a resume which defines the knowledge and expertise of the guest. Names shall be submitted prior to the guest being used by the school.

8.[2]3.5 An itemization of methods of instruction, including lecture method, slide presentation, cassette, videotape, movie, or other method. Absent special approval from the Division:

8.[2]3.5.1 Non-lecture methods of instruction will be limited to a total of 50% of the allotted credit hours.

8.[2]3.5.2 Non-lecture methods of instruction will have an accompanying workbook for the student to complete during the viewing time. The schools shall submit copies of the workbooks to the Division.

8.[2]3.5.3 Non-lecture methods of instruction will have a certified instructor available to answer questions within at least 24 hours after the presentation.

8.[2]3.6 A copy of [the]at least two final examinations of the course and the answer keys which [is]are used to determine if the student has passed the exam, accompanied by an explanation of what the procedure is if the student fails the final examination and thereby fails the course.

8.[2]3.6.1 A maximum of 10% of the required class time may be spent in testing, including practice tests and the final examination. A student cannot challenge a course or any part of a course of study in lieu of attendance.

8.[2]3.7 A list of the titles, authors and publishers of all required textbooks;

8.[2]3.7.1 All texts, workbooks, supplement pamphlets and any other materials must be appropriate and current in their application to the required course outline.

8.[2]3.8 Days, times and locations of classes;

8.[2]3.8.1 A college or a university may schedule its courses within the criteria of its regular schedule, for example, quarter, semester, or other. A college quarter hour credit is the equivalent of 10 classroom hours, and a college semester hour credit is the equivalent of 15 classroom hours.

8.[2]3.9 A copy of the statement which shall be provided for each student outlining the days, times and locations of classes; the

number of quizzes and examinations; the grading system, including methods of testing and standards of grading; the requirements for attendance; the school's evidence of notification to candidates of the qualifying questionnaire; and the school's refund policy.

8.[2]3.9.1 The statement to the student shall state in capital letters no smaller than 1/4 inch the following language: "Any student attending the (school name) is under no obligation to affiliate with any of the real estate brokerages that may be soliciting for agents at this school."

8.3.10 Any other information as the Division may require.

R162-8-[3]4. School Certification.

8.[3]4 When a school has met all conditions of certification, and upon approval by the Division, a school will be issued certification. All certifications expire December 31 of each year. Conditions of certification include the following:

8.[3]4.1 A school shall teach the approved course of study as outlined in the State Approved Course Outline.

8.[3]4.2 A school shall require each student to attend the required number of hours and pass a final examination. A school shall maintain a record of each student's attendance for a minimum of five years after enrollment.

8.[3]4.3 A school shall not accept a student for a reduced number of hours without first having a written statement from the Division which defines the exact number of hours the student needs.

8.[3]4.4 A school shall not make any misrepresentation in its advertising about any course of instruction, and shall be able to provide substantiation of any claims made. All advertising and public notices shall be free of statements or implications which do not enhance the dignity and integrity of the real estate profession. A school shall not make disparaging remarks about a competitor's services or methods of operation.

8.[3]4.5 A school shall limit approved guest lecturers who are experts in related fields to a total of ~~[+0%]~~20% of the instructional hours per approved course. A guest lecturer shall provide evidence of professional qualifications to the Division prior to being used as a guest lecturer.

8.[3]4.6 Within 15 calendar days after the occurrence of any material change in the school which would affect its approval, the school shall give the Division written notice of that change.

8.[3]4.7 A school shall not attempt by any means to obtain or use the questions on the prelicensing examinations unless the questions have been dropped from the current exam bank.

8.[3]4.8 A school shall not give any valuable consideration to a real estate brokerage for having referred students to the school. A school shall not accept valuable consideration from a brokerage for having referred students to the brokerage.

8.[3]4.8.1 If the school agrees, real estate brokerages may be allowed to solicit for agents at the school. No solicitation may be made during the class time nor during the student break time. Solicitation may be made only after the regularly scheduled class so that no student will be obligated to stay for the solicitation.

8.[3]4.9. A school shall use only certified instructors or guest lecturers who have been registered with the Division.

8.4.10 A school's owners and director shall be solely responsible for the quality of instruction in the school and for adherence to the state laws and regulations regarding school and instructor certification.

8.4.10.1 A school director shall provide the instructor with the approved content outline for each course and shall assure the content has been taught.

R162-8-5. Determining Fitness for Instructor Certification.

8.5. In order to be certified as a real estate instructor, the instructor applicant must have integrity and be honest, truthful, reputable and competent. The determination of whether an applicant possesses these qualifications will be made by the Division, with the concurrence of the Commission.

8.5.1. In determining fitness for certification, the Division and Commission will consider information which shall include the following:

(a) whether the applicant has had a license to practice in the real estate profession, or any other regulated profession or occupation, denied, restricted, suspended, or revoked or subjected to any other disciplinary action by this or another jurisdiction.

(b) whether the applicant has been permitted to resign or surrender a real estate license or any other professional license or has ever allowed a license to expire while the applicant was under investigation by, or while action was pending against the applicant by a real estate licensing or any other regulatory agency.

(c) whether any action is pending against the applicant by any real estate licensing or other regulatory agency.

(d) whether the applicant is currently under investigation for, or charged with, or has ever been convicted of or pled guilty or no contest to, or entered a plea in abeyance to, a misdemeanor or felony.

(e) whether the applicant has ever been placed on probation or ordered to pay a fine or restitution in connection with any criminal offense or a licensing action.

(f) whether a civil judgment has ever been entered against the applicant based on fraud, misrepresentation or deceit and whether the judgment has been fully satisfied.

(g) whether restitution ordered by a court in a criminal conviction has been fully satisfied;

(h) whether the probation in a criminal conviction or a licensing action has been complete and fully served; and

(i) whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a certification, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

[R162-8-4]R162-8-6. Instructor Application for Certification.

~~[8-4]~~8.6 An instructor shall not teach a prelicensing course by himself without having been certified by the Division prior to teaching. Each instructor and each adjunct instructor requesting approval to be certified~~as an instructor~~ to teach the education requirements of real estate licensing must make application for approval on a form prescribed by the Division.~~The application must include, and the division may consider, the following information in determining the instructor's eligibility for approval:~~

— 8.4.1. Attestation to upstanding moral character, including whether the individual:

— 8.4.1.1. has had a license to practice in the real estate profession, or any other profession or occupation, denied, restricted, suspended, or revoked;

— 8.4.1.2. has been permitted to resign or surrender a real estate license, or has ever allowed a real estate license to expire while the individual was under investigation, or while action was pending against the individual by a real estate licensing or any other agency;

— 8.4.1.3. has any action now pending by any real estate licensing or other agency;

— 8.4.1.4. is currently under investigation for, or charged with, or has ever pled guilty or no contest to, or been convicted of, a misdemeanor or felony, excluding minor traffic offenses. Two or more vehicle offenses such as driving while impaired or intoxicated must be disclosed;

— 8.4.1.5. has ever been placed on probation in connection with any criminal offense or a licensing action.];

8.~~[4-2]~~6.1 The instructor and the adjunct instructor applicant will demonstrate the initial ability to teach by either meeting the minimum point requirement outlined on the application form or by receiving a conditional approval granted by the division. The application form shall be received by the Division before the instructor applicant can begin to teach in the classroom.~~[evidence of knowledge of the subject matter by providing proof of the following:]~~

8.6.1.1 In the event an instructor candidate fails to meet the minimum point requirement outlined on the application form, and upon written recommendation from the certified school, the division may issue a conditional approval for the candidate to proceed into the instructor apprentice program.

8.6.1.2 The applicant receiving a conditional approval from the division will complete the apprentice teaching as outlined in 8.6.2.2 and 8.6.2.3 or as outlined in 8.6.4.1 and 8.6.4.2, and will be audited during the apprentice teaching by the education director of the division using the same evaluation form being used by the students.

8.6.1.3 The applicant receiving a conditional approval will need to receive the same satisfactory recommendation as outlined in 8.6.2.4 or 8.6.4.3 in addition to approval from the education director of the division before becoming certified.

~~[8-4-2-1~~ A minimum of two years active experience as a real estate licensee;

— 8.4.2.2 Evidence of having completed college or other appropriate courses in addition to prelicensing courses specific to the topic proposed to be taught;

— 8.4.2.3 Evidence of having passed an examination administered by the Division designed to test knowledge of the subject matter proposed to be taught;

— 8.4.2.4 In addition to the above, the instructor applying to teach a broker subcourse must meet the following criteria:

— 8.4.2.4.1 Brokerage Management. The instructor must be a licensed broker and have managed a real estate office, or hold a CRB or equivalent designation in real estate brokerage management. The instructor must have at least two years practical experience plus a theoretical background in real estate;

— 8.4.2.4.2 Advanced Real Estate Law. The instructor must be a current member of the Utah Bar Association or have graduated from an accredited institution with a law degree. The instructor must have at least two years practical experience in the field of real estate law.

~~8.4.2.4.3 Advanced Appraisal. The instructor must be a state certified appraiser. The instructor must have at least two years practical experience plus a theoretical background in appraising.~~

~~8.4.2.4.4 Advanced Finance. The instructor must have been associated with a lending institution as a loan officer or have a degree in finance. The instructor must have at least two years practical experience plus a theoretical background in real estate finance.~~

~~8.4.2.4.5 Equivalent Qualifications. The instructor must have other experience, education, or credentials which are equivalent to any of the above as determined by the Division and the Commission.~~

~~8.4.3 The instructor applicant will demonstrate evidence of the ability to communicate the subject matter by submitting proof of the following:~~

~~8.4.3.1 A state teaching certificate or successful completion of appropriate college courses in the field of education, or~~

~~8.4.3.2 A professional teaching designation or certification from the National Association of Realtors or the Real Estate Educators Association, or~~

~~8.4.3.3 Evidence of previous teaching experience with adults in a real estate related field; or]~~

~~8.4.3.4 Evidence of completing an instructor apprentice program, the requirements of which are the following:]8.6.2 The instructor applicant for the 90 hour sales agent prelicensing course will complete an instructor apprentice program, the requirements of which are the following:~~

~~8.[4.3.4:]6.2.1 The instructor applicant will either audit each course to be taught by him and prepare teaching notes on the course of study; or[and thereafter]~~

~~8.[4.3.4:]6.2.2 The instructor applicant will co-teach the course with a [senior]fully certified instructor; and thereafter~~

~~8.[4.3.4:]6.2.3 The instructor applicant will teach the course under the direction of a [senior]fully certified instructor[;]. The instructor will teach the curriculum as provided by the school.[and thereafter]~~

~~8.[4.3.4:]6.2.4 [The instructor applicant will provide evidence of satisfactory evaluations as an apprentice instructor from the senior instructor and the students attending the class:]The school will provide to the division evidence of a satisfactory recommendation made by the certified instructor and the school director. The school will also provide to the division satisfactory evaluations of the apprentice instructor made by the students attending the class the instructor taught as an apprentice. The evaluations will be graded on a 5-point scale, and the apprentice instructor must have received a minimum of a 3.5 point average on the evaluations.~~

~~8.6.2.5 The instructor applicant shall pass an examination designed to test the knowledge of the subject matter proposed to be taught.~~

~~8.6.2.6 This instructor, once certified, shall have the authority to teach all segments of the sales agent curriculum and any classes certified for continuing education regarding real estate principles and practices.~~

~~8.6.3 The instructor applicant for a broker prelicensing subcourse will be a principal broker, an associate broker or a branch broker and will meet the following criteria:~~

~~8.6.3.1 Brokerage Management. The instructor applicant must be a licensed broker and have managed a real estate office, or hold~~

a CRB or equivalent designation in real estate brokerage management. The instructor applicant must have at least two years practical experience as an active real estate principal broker.

8.6.3.2 Advanced Real Estate Law. The instructor applicant must be a current member of the Utah Bar Association or have graduated from an American Bar Association law school. The instructor applicant must have at least two years practical experience in the field of real estate law.

8.6.3.3 Advanced Appraisal. The instructor applicant must be a state certified appraiser and hold a MAI or equivalent designation. The instructor applicant must have at least two years practical experience in appraising.

8.6.3.4 Advanced Finance. The instructor applicant must have been associated with a lending institution as a loan officer or have a degree in finance. The instructor applicant must have at least two years practical experience in real estate finance.

8.6.3.5 Advanced Property Management. The instructor applicant must be a real estate licensee. The instructor applicant must hold a CPM or equivalent designation. The instructor applicant must have at least two years full-time experience as a property manager.

8.6.3.6 Equivalent Qualifications. The instructor applicant must have other experience, education, or credentials which are equivalent to any of the above as determined by the Division and the Commission.

8.6.4 The adjunct instructor applicant may be certified to teach a portion of the sales agent prelicensing course or a portion of a broker subcourse with certification limited to teaching a specific subject. The applicant will complete an instructor apprentice program, the requirements of which are the following:

8.6.4.1. The instructor applicant will either audit each course to be taught by him and prepare teaching notes on the course of study; or

8.6.4.2 The instructor applicant will co-teach the specific subject with a fully certified instructor; and thereafter

8.6.4.3 The instructor applicant will teach the specific subject under the direction of a fully certified instructor. The instructor will teach the curriculum as provided by the school.

8.6.4.4 The school will provide to the division evidence of a satisfactory recommendation made by the certified instructor and the school director. The school will also provide to the division satisfactory evaluations of the apprentice instructor made by the students attending the class the instructor taught as an apprentice. The evaluations will be graded on a 5-point scale, and the apprentice instructor must have received a minimum of a 3.5 point average on the evaluations.

R162-8-[5]7. Instructor Certification Renewal.

8.[5]7 Upon approval by the Division, an instructor applicant will be issued certification. All original certifications expire the following December 31 of the first full year following certification.

8.[5]7.1 Subsequent certifications expire two years later on December 31.[Instructors not meeting the conditions for renewal of certification must apply as an original applicant.] Conditions of renewal of certification include providing proof of the following:

8.[5]7.1.1 Must have taught at least 20 hours of in-class instruction in a certified real estate course during the preceding two years;

8.[5]7.1.2 Must have attended a real estate instructor development workshop sponsored by the Division during the preceding two years; and

8.[5]7.1.3 Must have completed 12 hours of ~~certified continuing education or~~live education taken in a real estate related subject~~[which has been pre-approved by the Division]~~ in addition to the 12 hours of continuing education required for license renewal, and will provide a written evaluation of the course(s) and instructor(s) to the Division at time of renewal on a specific instructor evaluation form provided by the Division.

8.7.2 If the renewal fee and documentation are not received within the prescribed time period, the certification shall expire.

8.7.2.1 When a certification expires, the certification may be renewed for a period of thirty days after the expiration date upon payment of a non-refundable late fee in addition to the requirements of R162-8-7(8.7.1.1) - R162-8-7(8.7.1.3).

8.7.2.2 After the period of thirty days, those instructors and adjunct instructors not meeting the conditions for renewal of certification must apply as an original applicant.

R162-8-[6]8. Administrative Proceedings.

8.[6]8 The Division may deny certification or renewal of certification to any school or instructor that does not meet the standards required by this chapter.

8.[6]8.1 Formal adjudicative proceedings. Any adjudicative proceedings as to the following matters shall be conducted on a formal basis:

8.[6]8.1.1 The revocation or suspension of certification of real estate schools or instructors.

8.[6]8.2 Informal adjudicative proceedings. Any adjudicative proceedings as to the following matters shall be conducted on an informal basis:

8.[6]8.2.1 The issuance or renewal of certification of real estate schools or instructors.

KEY: real estate business

~~[January 25, 1996]~~2000

61-2-5.5

Notice of Continuation July 1, 1997

◆ ----- ◆
Corrections, Administration

R251-113

Distribution of Reimbursement from the Inmate Costs Reimbursement Program

NOTICE OF PROPOSED RULE

(New)

DAR FILE NO.: 23106

FILED: 08/23/2000, 10:48

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish the procedures for the

computation and distribution of reimbursement from the Inmate Cost Reimbursement Program.

SUMMARY OF THE RULE OR CHANGE: This rule describes the process for negotiating and computing a single reimbursement rate to be used as the basis for all counties as the rate for cost-recovery of housing state prison inmates.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 64-13c-301, 64-13c-302, 64-13c-303, and 64-13c-304

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is no additional cost to the state budget because it is already funded every year by the Jail Program line item in the Department's total budget.

❖LOCAL GOVERNMENTS: None--any costs incurred by counties will be offset because counties will be eligible for reimbursement by the Department.

❖OTHER PERSONS: None--No costs or savings are anticipated because the rule only applies to state and county governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--No costs or savings are anticipated because the rule only applies to state and county governments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses.

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

Corrections
Administration
Suite 304
6100 South Fashion Boulevard
Murray, UT 84107, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Pam Elliott at the above address, by phone at (801) 265-5514, by FAX at (801) 265-5523, or by Internet E-mail at crdeptdo.crdept.pelliott@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: H. L. Haun, Executive Director

R251. Corrections, Administration.

R251-113. Distribution of Reimbursement from the Inmate Costs Reimbursement Program.

R251-113-1. Authority and Purpose.

(1) This rule is provided in accordance with Section 76-13c-301, et seq.

(2) As required by Subsection 64-13c-303(1)(b), the purpose of this rule is to establish procedures for the distribution of reimbursement from the program.

R251-113-2. Definitions.

In addition to terms defined in Section 64-13c-101,

(1) "Core inmate incarceration costs" means the county correctional facility's direct costs of incarcerating an inmate, including housing, feeding, clothing, and programming. This is also the "single-reimbursement-rate" as provided in Section 64-13c-302. This does not include costs of inmate transportation services or medical care; nor programming for felony probationers.

(2) "Credit for Time Served" means time served in jail prior to judgement, sentence, and commitment.

(3) "Current expenses" means the actual costs of jail salaries, benefits, food, clothing, maintenance, utilities expended during the most recent budget year.

(4) "Transportation cost" means mileage rate, salary and benefit costs of the transporting officer(s) expended during the most recent budget year.

R251-113-3. Reimbursement Rates - General.

Pursuant to Section 64-13c-302:

(1) the Utah Sheriff's Association and the Department shall negotiate a single reimbursement rate, applicable to all counties, which shall consist of daily core inmate incarceration costs; and

(2) each county shall negotiate directly with the Department to establish appropriate reimbursement rates for the providing of transportation services and medical care for inmates housed under Section 64-13c-201, including felony probationers committed to a county correctional facility;

(3) the three parts of the reimbursement rate are:

(a) the core inmate incarceration costs;

(b) medical costs; and

(c) transportation costs; and

(4) the counties shall be eligible to be reimbursed amounts that reflect:

(a) the core inmate incarceration cost for contract state prison inmates; or

(b) the core inmate incarceration cost plus medical and transportation costs for inmates sentenced under a condition of probation.

R251-113-4. County Information Requirement.

(1) On or before the first Friday in March, each county shall provide the Department with budget expenditure information covering the most recent full County Fiscal Year ending on December 31st of each year:

(a) the full costs and expenses required to operate the jail for the current year;

(b) the cost of medical care provided to all inmates housed in the jail for the current year;

(c) the cost of transportation services provided during the current year; and

(d) the number of inmates and number of "inmate-days" for:

(i) the number of state-contract inmates;

(ii) the condition-of-probation inmates;

(iii) the number of all other county inmates, including all other inmates within the facility not already listed;

(iv) the number of federal inmates;

(v) the number of electronically monitored inmates; and

(vi) the number of total inmates.

(2) The Department may audit the information received by each county as necessary.

R251-113-5. Computation of Reimbursement Rates.

(1) A single reimbursement rate shall be used as the basis for all counties as the rate for cost-recovery of housing state prison inmates.

(a) It will be computed by taking a list of the total information received from all counties, categorized as total inmate days and total current expenses; and then taking

(b) total current expenses, which shall then be divided by the total inmate days, resulting in a computed rate.

(c) This computed rate shall be used as the single reimbursement rate for all counties during the year.

(2) In addition, a separate "core" rate shall be calculated to reflect medical and transportation expenses incurred by each county.

(a) This separate core rate will be computed by totaling the information received from all counties which are categorized as total inmate days and total medical and transportation costs, and by dividing the total medical and transportation costs by the total inmate days.

(b) This calculated separate core rate for medical and transportation for each county shall then be added to the "single" reimbursement rate for counties housing inmates sentenced under a condition of probation.

(c) These two rates shall be considered as the total amount eligible for reimbursement to a county.

R251-113-6. Payment for Condition of Probation Inmates.

(1) Each county shall be eligible to be reimbursed at the single reimbursement rate plus the individual county rates established for medical and transportation.

(2) "Credit for Time Served" is not eligible for reimbursement.

**KEY: county jails, reimbursement
2000**

64-13-303



**Environmental Quality, Solid and
Hazardous Waste
R315-315-9
Waste Asphalt**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23104

FILED: 08/21/2000, 18:18

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is changed in response to comments received in a recent public comment period.

(DAR Note: The public comment period was for changes to R315-301 published under DAR No. 22855 and R315-315 published under DAR No. 22858 in the June 1, 2000, issue of the *Utah State Bulletin*.)

SUMMARY OF THE RULE OR CHANGE: The requirements for the management of waste asphalt are moved from Section R315-301-4 to a new Section R315-315-9.

(DAR Note: The change in proposed rule to R315-301 was published in the September 1, 2000, issue of the *Utah State Bulletin* under DAR No. 22855.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Rule requirements are relocated and not changed. Therefore, there is no anticipated cost or savings impact to the State budget.

❖LOCAL GOVERNMENTS: Rule requirements are relocated and not changed. Therefore, there is no anticipated cost or savings impact to local governments.

❖OTHER PERSONS: Rule requirements are relocated and not changed. Therefore, there is no anticipated cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the requirements for the management of waste asphalt are relocated but not changed, compliance costs for affected persons will not change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will experience no change in fiscal impact as a result of moving the requirements for the management of waste asphalt from Section R315-301-4 to Section R315-315-9--Dianne R. Nielson, Ph.D.

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

Environmental Quality
Solid and Hazardous Waste
Cannon Health Building
288 North 1460 West
PO Box 144880
Salt Lake City, UT 84114-4880, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carl E. Wadsworth at the above address, by phone at (801) 538-6170, by FAX at (801) 538-6715, or by Internet E-mail at eqshw.cwadswor@state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board

R315. Environmental Quality, Solid and Hazardous Waste. R315-315. Special Waste Requirements.

R315-315-9. Waste Asphalt.

(1) The preferred management of waste asphalt is recycling. Recycling of waste asphalt occurs when it is used:

(a) as a feedstock in the manufacture of new hot or cold mix asphalt;

(b) as underlayment in road construction;

(c) as subgrade in road construction when the asphalt is above the historical high level of ground water;

(d) under parking lots when the asphalt is above the historical high level of ground water; or

(e) as road shoulder when the use meets engineering requirements.

(2) If waste asphalt is disposed, it shall be disposed in a permitted landfill.

KEY: solid waste management, waste disposal

[~~October 15, 1999~~]2000

19-6-105

Notice of Continuation April 28, 1998



Financial Institutions, Administration

R331-10

Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23108

FILED: 08/24/2000, 13:40

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To bring up-to-date the schedule for retention or destruction of records of financial institutions under the jurisdiction of the Department of Financial Institutions in accordance with changes in the industry and federal law.

SUMMARY OF THE RULE OR CHANGE: Amends the required schedule of retention or destruction records of financial institutions under the jurisdiction of the Department of Financial Institutions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 7-1-301(7)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: No impact on the State budget as compliance to the rule affects the financial institutions not the department.

❖LOCAL GOVERNMENTS: None--the rule does not affect local government.

❖OTHER PERSONS: Financial institutions, banks, and industrial loan corporations are currently complying with this rule and modifications to the rule should have minimal budgetary impact as compared to the current retention and destruction schedules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: See answer to "Other persons" above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: See answer to "Other persons" above.

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

Financial Institutions Administration Suite 201 324 South State PO Box 89 Salt Lake City, UT 84110-0089, or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

R. Paul Allred at the above address, by phone at (801) 538-8854, by FAX at (801) 538-8894, or by Internet E-mail at pallred@dfi.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: R. Paul Allred, Deputy Commissioner/Staff Attorney

R331. Financial Institutions, Administration.

R331-10. Schedule for Retention or Destruction of Records of Financial Institutions Under the Jurisdiction of the Department of Financial Institutions.

R331-10-1. Authority, Scope, and Purpose.

(1) This rule is issued pursuant to Section 7-1-301(7).

(2) This rule establishes a schedule for the retention of records of financial institutions under the jurisdiction of the Department of Financial Institutions. Each financial institution may deem it prudent from a business, legal, or other regulatory reason to retain records not identified in this rule.

(3) It is the purpose of this rule to require the maintenance of appropriate types of records where such records have a high degree of usefulness and prescribe the period for which records of each class are retained.

(4) This rule does not prescribe the method of retention other than that the method selected by each financial institution must ensure the records be readily retrieved in an unaltered state.

R331-10-2. Definitions.

- Key to Abbreviations:[Figure with "mos." - Months] Figures - Years[P - Permanently]

R331-10-3. Retention of Records.

[(1) Administrative

TABLE 1

Table listing retention periods for various records such as Minute Books, Auditing and Accounting Accrual, Capital, Insurance records, and Loans and Discounts.

(h) Personnel
 Attendance record (after leaving service) including "hours worked" 5
 Salary ledger 7
 Salary receipts 7
 Records of employees Applications, reference records, reports and results of examinations, service record, efficiency tests, etc., after leaving service 7

(2) Cash]

(1) CORPORATE AND LEGAL

TABLE 1

Regulation S (domestic and international funds transfer) 5
 Annual Disclosures Statements/Annual Reports 2
 Minute books of directors, executive committee and other records reflecting corporate governance documentation, (e.g., minutes, articles, bylaws, stock records) 10
 Superceded policies and procedures 2
 Business licenses 1
 Service agreements with vendors 2
 Litigation documents (after resolution) 2
 Affidavits 2
 Attachments, garnishments 6

TABLE 2

(a) Due from Banks
 Advices from correspondents 6 mos.
 Affidavits/bonds of indemnity for duplicate drafts issued P
 Bank statements 1
 Drafts 7
 Draft register 7
 Reconcilements 1
 Departmental or tellers' proof sheets 1
 (b) Proof of Clearings
 Clearing house settlement sheets 3 mos.
 Deposit proof sheets or tapes 1
 In-clearing proof sheets 1
 In-clearing tapes 1
 Out-clearing proof sheets 1
 Clearing house settlement checks 7
 (c) Tellers
 Cash item record 2
 Cash item register 2
 Receipts for return items 2
 Tellers' cash tickets, original and carbon tickets) 1
 Tellers' recapitulation (with general ledger tickets) 7
 Tellers' blotters 3
 (d) Transit
 Outgoing cash letters 4
 Proof sheets 4
 Photographic record negatives 4

(3) Deposits]

(2) DEPOSITORY PRODUCTS

TABLE 2

Records of checks, drafts and other instruments presented for payment or deposit 6
 Deposit records showing relationship of insurance claimants to insurance funds 1

Deposit records disclosing a relationship which might provide the basis for additional insurance 1
 Records evidencing compliance with Truth in Savings Act 2
 Records of purchases and purchasers of bank checks, drafts, cashier=s checks, money orders, and traveler=s checks 5
 Tax identification numbers of deposit/share/transaction accounts 5
 Deposit account trial balance records 5
 Each check, deposit, money order issued or payable by bank in excess of \$100 5
 Records of debits to customers= account in excess of \$100 5
 Records of purchaser of certificate of deposit 5
 Records of tax identification number of any person presenting certificate of deposit for payment 5
 Deposit slips and credit tickets in excess of \$100 5
 Records of receipts of currency in excess of \$10,000 received from persons outside United States 5
 Cash letters 1
 Account documentation, (e.g., signature card, resolutions, power of attorney, guardianship) 6
 Stop payment orders (after release) 1

TABLE 3

(a) Account Analysis
 Analysis work sheets or cards 1
 Service charge records 10
 (b) Bank (due to) Deposits
 Cash letters 1
 Cash letters for remittance 1
 Country bank ledger 6
 Ledger journal 1
 Reconcilements 1
 Resolutions (after account closed) 10
 Signature cards (after account closed) 10
 (c) Certificates of Deposit
 Certificates (paid) 6
 Ledger cards (paid) 6
 Register (paid) 6
 (d) Commercial Deposits, Individual and Firm
 Bookkeepers' daily lists of checks charged in total 10
 Copies of advices of deposit 6 mos.
 Deposit tickets 7
 Individual ledgers 7
 Individual ledger journal 1
 Resolutions (after closing) 10
 Signature cards (after closing) 10
 Signature power of attorney (after closing) 10
 Statement mailing order (after closing) 10
 Statement receipt cards (after closing) 10
 Stop payment orders (after release) 1
 Unclaimed deposits 10
 Undelivered statements and canceled checks 7
 (e) Official Checks and Drafts
 Cashiers' checks 10
 Cashiers' check register 10
 Certified checks 10
 Certified check register 10
 Drafts 10
 Draft register 10
 Expense checks 10
 Expense check register 10
 Expense vouchers 10
 Letters of credit and documents 10
 Receipts for certified checks 10
 (f) Savings Deposits
 Deposit tickets 7
 Journal 7

— Ledger cards of sheets	10
— N.C.R. control journal tapes	6
— Resolutions (after account closed)	7
— Signature cards (after account closed)	10
— Signature powers of attorney	10
— Withdrawal receipts	7

(4) Miscellaneous]

(3) FIDUCIARY

TABLE 3

— Safe deposit documentation, (e.g., access records, contracts)	5
— Records relating to municipal securities dealing: copies of filings to any associated person following termination of association	3
— Record of all brokers/dealers selected by bank to effect transactions and amount of commission paid or allocated each year	3
— Tax identification number of customers having securities	5
— Records of securities authority from customer	5
— Records of amounts expended and adjustments made to property acquired and held for investment or to verify exercise of qualified stock option, debts written off, amount of loans outstanding with regard to reserves for losses on bad debts of financial institutions for last five taxable years	6
— Fiduciary authority documentation, (e.g., trust agreements, court orders, powers of attorney, directives, authorizations)	6
— Fiduciary account documentation, (e.g., cash and asset records, tax returns)	6
— Fiduciary management committee meeting records	5
— Escrow records (after closing)	6
— Safekeeping records and receipts	2
— Fiduciary account documentation, (e.g., chronological logs of itemized daily records, account records for each customer, order ticket of each buy/sell, record of all brokers used)	3

[TABLE 4

— (a) Collections	
— Collection receipts, carbons of	6
— Collection register	6
— Coupon cash letters, outgoing	1
— Customer's file copies	1
— Incoming collection letters	3
— Installment contract or note records (after closing)	6
— (b) Customer Service	
— Brokers' confirmations	7
— Brokers' invoices	7
— Brokers' statements	7
— Escrow records (after closing)	7
— Safekeeping records and receipts	10
— Securities buy and sell orders	7
— (c) General	
— Affidavits	P
— Applications for travelers' checks	1
— Attachments, garnishments	7
— Attachment releases	7
— Change of address orders	7
— Court order (after case closed)	7
— Court order memorandum record	10
— Foreign exchange remittance sheets or books (after issue)	7

— General correspondence	7
— Paid bills, statements and invoices	5
— Receipts (ordinary)	7
— Telegrams, cable and radiogram copies	6
— Telegraphic transfer receipts and records	6
— Vault records, opening and closing	6 mos.
— (d) Registered Mail	
— Registered mail (incoming) record	5
— Registered mail (outgoing) record	5
— Return receipt cards	5
— (e) Safe deposit Vaults	
— Access tickets (after entry date)	7
— Leases or contracts (closed)	P
— Storage receipts	10
— Ledger record of account	6
— Rent receipts	6

(5) U.S. Savings Bonds]

(4) LENDING/LEASING

TABLE 4

— Lending and leasing documents after closed, (e.g., credit application, appraisal, credit report, signatory)	6
— Card applications, documentation from date of application	2
— Open or closed-end credit document files excluding card application documentation	6

[TABLE 5

— (a) U.S. Savings Bond stubs, Series E	1
— (b) U.S. Savings Bond applications, Series E	P

(Memo: Applications must show bond numbers. File alphabetically by years.)

(6) Trust Department or Company

At the discretion of the Trust Company, the original or a copy of the original, reproduced by the microphotographic or other equivalent process, shall be retained in accordance with the following schedule:]

(5) REGULATORY

TABLE 5

— Credit record of transfers of credit more than \$10,000 to outside the United States	5
— Credit record of transfers of funds more than \$10,000 to outside the United States	5
— Checks or records of drafts in excess of \$10,000 drawn on foreign banks	5
— Checks, drafts in excess of \$10,000 from bank, broker or exchange dealer outside United States	5

[TABLE 6

— Correspondence (after account closing)	5
— Original trust agreements (after account closes)	50
— Original agency agreements (after account closes)	50
— Certified copies of court orders, decrees, etc. (after account closing)	5

~~Copies of Personal Representatives' and Conservators' Court filed accountings, petitions, etc. (after account closing) 5~~
~~Receipts, authorizations, directives, approvals. 50~~
~~Canceled checks 5~~
~~Individual accounts cash and asset records 50~~
~~Department General Ledger (Statement of Condition) 50~~
~~Department cash and asset journals (Daily proving media) 1~~
~~Copies of Federal and State death tax returns (after account closing) 50~~
~~Copies of Federal and State Income Tax returns and supporting work papers 5~~
~~Tax records pertaining to throwback rules and generation skipping (after purpose served). 5~~
~~Posting Media-~~
~~Individual account cash and asset tickets. 1~~
~~General ledger tickets 7~~
~~Fee Calculation records 1~~
~~Account investment reviews 1~~
~~Miscellaneous un-inventoried personal effects of a decedent (Distribute if possible, or destroy under supervision of a Trust Company Officer, upon receipt of final discharge of P.R.)~~
~~Minutes of Committee meetings 50~~
~~Stock Transfer-~~
~~Individual stockholder records —OWN STOCK (after closing) 50~~
~~Individual stockholder records —Agency (5 years after closing or upon closing of agency return to principal or dispose of in accordance with the principal's written instruction.)~~
~~Legal papers supporting transfers may be returned, if copies are kept by the transfer agent 50~~
~~Canceled stock certificates (periodically obtain instructions of principal for return or other disposition.)~~
~~Daily transfer or registrar journals and co-transfer agent or co-registrar reports where Trust Company is main transfer agent or registrar 7~~
~~Daily transfer or registrar journals and reports where Trust Company is not the main transfer agent or registrar 11~~

**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-7A
 Medicaid Certification of New Nursing
 Facilities**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23116
 FILED: 08/29/2000, 09:27
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to control the supply of Medicaid nursing facility programs. The reason for the change is to allow certain facilities to convert to a Critical Access Hospital category, without lifting the existing moratorium for all skilled nursing settings.

SUMMARY OF THE RULE OR CHANGE: A section will be added to the rule that excludes facilities that are considering converting to Critical Care Access Hospital designation to receive Medicaid/Medicare certification without the need to conform to Section R414-7A-5. A definition of Critical Care Access Hospital is added to Section R414-7A-2.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5; and Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This change should be cost neutral since there will not be an increase in long-term care beds, only the conversion of the swing bed designation to skilled nursing facility.
 - ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government, so there should be no fiscal impact.
 - ❖ **OTHER PERSONS:** Conversion to a critical care access hospital is voluntary. Hospitals will weigh the cost/benefit before proceeding. Remodeling costs, training costs, and computerization costs for resident assessments may be incurred, but administrators have requested this option and feel that this is achievable with small costs for facility conversion.
- COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs for affected persons are as described in "other persons" above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Allowing hospitals in rural areas to convert to critical care access status will be a positive for both the hospitals and those they serve. Economically fragile hospitals will be strengthened. Conversion is voluntary--Rod L.Betit

(6) FINANCIAL

TABLE 6

~~Escheatment documentation (abandoned deposit accounts, unpaid cashier's checks, unpaid expense checks) 7~~
~~Internal audit reports 5~~
~~Investment confirmations, statements, buy and sell orders 6~~
~~Financial records, (e.g., journals, ledgers, statements, source documents) 7~~
~~Reconcilements, (e.g., General ledger account and supporting documentation) 2~~
~~Notes on contracts payable documentation (after closing) 2~~

KEY: financial institutions
[1987]2000 **7-1-301(7)**
Notice of Continuation August 8, 1997

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
PO Box 141000
Salt Lake City, UT 84114-1000, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Doug Springmeyer at the above address, by phone at (801) 538-6971, by FAX at (801) 538-6306, or by Internet E-mail at dspringm@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-7A. Medicaid Certification of New Nursing Facilities.

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R414-7A-2. Definitions.

For purposes of this rule the definitions in R414-1-1 apply. In addition:

(1) "Certified program" means a nursing facility program with Medicaid certification.

(2) "Critical Care Access Hospital" means a hospital that meets the criteria set forth in 42 U.S.C. 1395i-4(c)(2)(1998).

(~~2~~3) "Medicaid certification" means the right to Medicaid reimbursement as a provider of a nursing facility program shown by a valid federal Health Care Financing Administration (HCFA) Form 1539 (7-84).

(~~3~~4) "Nursing facility" means any Medicaid participating NF, SNF, ICF, ICF/MR, or a combination thereof, as defined in 42 USC 1396r(a) (1988), 42 CFR 440.150 and 442.12 (1993), and UCA 26-21-2(15).

(~~4~~5) "Nursing facility program" means the personnel, licenses, services, contracts, and all other requirements that must be present for a nursing facility to be eligible for Medicaid certification as detailed in 42 CFR 442.1 through .119, 483.1 through .480, and 488.1 through .64 (1993), which are adopted and incorporated by reference.

(~~5~~6) "Physical facility" means the building(s) or other physical structure(s) where a nursing facility program is operated.

(~~6~~7) "Service area" means the boundaries of the distinct geographical area served by a type of certified program, the department to determine the exact area, based on fostering price competition and maintaining economy and efficiency in the Medicaid program.

.....

R414-7A-5. Certification of Additional Nursing Facility Programs.

The department may certify additional nursing facility programs if the executive director or his designee determines that there is insufficient capacity at certified programs in a service area to meet the public need.

(1) The department may certify an additional nursing facility program only if:

(a) after 30-day notice to the Department of Human Services of the department's finding that there is insufficient capacity at certified programs in a service area to meet the public need, the Department of Human Services cannot demonstrate that community-based services can meet the public need; and

(b) after the close of the 30-day notice to the Department of Human Services and a separate 30-day notice to all certified programs operating in the service area, the certified programs operating in the service area cannot demonstrate that they have tangible plans to add additional capacity to their nursing facility programs to meet the public need.

(2) If community-based services and existing certified programs operating in the service area cannot demonstrate that they can meet the public need, the department may select an additional nursing facility program through a request-for-proposal process.

(a) Each proposal must include sufficient information to allow the department to evaluate and rank it among all proposals according to the criteria in R414-7A-5(2)(b), as well as other information that the department solicits in its request-for-proposals. The department shall reject all proposals that offer to operate for a reimbursement rate higher than that paid to similar certified programs.

(b) The department shall evaluate and select from among the proposals based on maintaining price competition, economy, and efficiency in the Medicaid program; the ability of the proposed nursing facility program to deliver quality care; and how quickly the proposed nursing facility program can begin to operate.

(3) If a nursing facility program that the department selected under the request-for-proposal process fails to undertake the necessary steps to become Medicaid certified or fails to begin to provide medical assistance to Medicaid recipients as represented in its proposal, the department may reject that nursing facility program, and either select the next ranked nursing facility program or solicit new proposals without again complying with the requirements of R414-7A-5(1).

(4) If, after certifying an additional nursing facility program, the executive director or his designee determines that there is sufficient capacity at certified programs in a service area to meet the public need, the limitations set out in R414-7A-5(1) through (3) control the certification of nursing facility programs.

(5) The department hereby determines that there is insufficient capacity to meet the public need wherever a critical care access hospital is located and may certify a new nursing facility program that is directly related to the operation of a critical care access hospital, without the need to meet the requirements of subsections (1) to (4) above.

KEY: medicaid
~~July 30, 1995~~2000 26-1-5
 Notice of Continuation December 20, 1999 26-18-1
 26-18-2.3
 26-1-30(2)(a), (b), (w) 26-18-3

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 Health
 Health Care Financing,
 Coverage and Reimbursement Policy
 Cannon Health Building
 288 North 1460 West
 PO Box 141000
 Salt Lake City, UT 84114-1000, or
 at the Division of Administrative Rules.

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**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-401
 Nursing Care Facility Assessment**

NOTICE OF PROPOSED RULE

(New)
 DAR FILE NO.: 23117
 FILED: 08/29/2000, 09:27
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule implements the assessment imposed on certain nursing care facilities.

SUMMARY OF THE RULE OR CHANGE: This rule specifies the form that nursing care facilities must use to report information regarding the nursing facility assessment authorized by Title 26, Chapter 35. The Department is also authorized to postpone payments for certain facilities pending legislative action and the waiver of penalties and interest.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5; and Title 26, Chapter 35

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule may save administrative expense to the State by standardizing the returns used by nursing care facilities to report patient days. State-sponsored facilities may not have to pay the assessment pending legislative action.

❖LOCAL GOVERNMENTS: If local governments operate a facility subject to the assessment, their administrative costs should be reduced by having a standard return.

❖OTHER PERSONS: Nursing care facilities should have reduced administrative costs by having a standard return.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for regulated nursing care facilities should stay the same, or be less, due to the use of a standard return. Most facilities are already using this form.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have a negative fiscal impact on business--Rod L. Betit.

DIRECT QUESTIONS REGARDING THIS RULE TO: Doug Springmeyer at the above address, by phone at (801) 538-6971, by FAX at (801) 538-6306, or by Internet E-mail at dspringm@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R414-401. Nursing Care Facility Assessment.

R414-401-1. Introduction and Authority.

(1) This rule implements the assessment imposed on certain nursing care facilities.

(2) The rule is authorized by Section 26-1-5 and Chapter 26-35.

R414-401-2. Definitions.

The definitions in Section 26-35-103 apply to this rule.

R414-401-3. Assessment.

(1) The assessment is not imposed on the Utah State Development Center or the Utah State Hospital.

(2) For any other similar facility, the Department may, at its sole discretion, extend the time for payment of the assessment until the legislature has had an opportunity to exempt that facility from the assessment.

R414-401-4. Reporting and Auditing Requirements.

(1) Each nursing care facility shall, on or before the end of the month next succeeding each month, file with the Department a return for the month, and shall remit with the return the assessment required to be paid for the month covered by the return.

(2) Each return shall be on the Department-approved form, and shall disclose the total number of patient days in the facility during the period covered by the return.

(3) Each nursing care facility shall supply the data required in the return and shall sign a disclosure statement indicating that the information is accurate to the best of the representative's knowledge.

(4) Each nursing care facility subject to this assessment shall maintain complete and accurate records. Auditors from the Department assigned by the Director to enforce and administer the provisions of this assessment may inspect each nursing care facility's records to verify compliance.

(5) Separate nursing care facilities owned or controlled by a holding company or similar entity may combine reports and payments of assessments provided that the required data are clearly set forth for each separate reporting nursing care facility.

R414-401-5. Penalties and Interest.

(1) The penalty for failure to file a return or pay the assessment due within the time prescribed by this rule is the greater of \$50 or 5% of the assessment due on the return.

(2) For failure to pay within 30 days of a notice of deficiency of the assessment required to be paid, the penalty is the greater of \$50 or 10% of the assessment due.

(3) The penalty for underpayment of the assessment is as follows:

(a) If any underpayment of the assessment is due to negligence, the penalty is 25% of the underpayment.

(b) If the underpayment of the assessment is due to intentional disregard of law or rule, the penalty is 50% of the underpayment.

(4) For intent to evade the assessment, the penalty is 100% of the underpayment.

(5) The rate of interest applicable to an underpayment of an assessment under this rule or an unpaid penalty under this rule is 12% annually.

(6) The Department may reduce or waive the imposition of a penalty for good cause.

KEY: medicaid

2000

26-1-5

26-35



**Health, Health Systems Improvement,
Health Facility Licensure
R432-1**

General Health Care Facility Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 23113

FILED: 08/28/2000, 12:16

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Health Technology Certification Center has the responsibility to certify home health aides and certified nurse aides who work in licensed health care settings. This rule change combines the certifications into one, certified nurse aide, and eliminates the home health aide certification.

SUMMARY OF THE RULE OR CHANGE: The rule eliminates the home health aide definition.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-21-2

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is a cost to print and distribute the rule change which can be borne within the current budget.

❖LOCAL GOVERNMENTS: There is no cost to local government agencies since this rule only applies to a definition of a term used in the R432-700 and R432-750 program standards.

(DAR Note: The proposed changes to R432-700 are under DAR No. 23114 and the proposed change to R432-750 are under DAR No. 23115 in this *Bulletin*.)

❖OTHER PERSONS: There is no cost for the definition change. The cost to implement the change will be reflected in the program standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is not an individual cost for eliminating the definition of home health aides. The program implementation cost will be reflected in the proposed R432-700 and R432-750 rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no cost to business as a result of this rule clarification--Rod L. Betit

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

Health
Health Systems Improvement,
Health Facility Licensure
Second Floor, Martha Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debra Wynkoop at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-1. General Health Care Facility Rules.

R432-1-3. Definitions.

(1) Terms used in this rule are defined in Section 26-21-2. In addition:

(2) "AWOL/Elopement" means absence without leave; an unauthorized departure from the facility.

- (3) "Abortion" is defined in Section 76-7-301(1).
- (4) "Abuse" is defined in 62A-3-301 as:
- (a) attempting to cause, or intentionally or knowingly causing physical harm, or intentionally placing another in fear of imminent physical harm;
- (b) physical injury caused by criminally negligent acts or omissions;
- (c) unlawful detention or unreasonable confinement;
- (d) gross lewdness;
- (e) deprivation of life sustaining treatment, except:
- (i) as provided in Title 75, Chapter 2, Part 11, Personal Choice and Living Will Act; or
- (ii) when informed consent, as defined in Section 76-5-111, has been obtained.
- (5) "Act" means the Health Facility Licensure and Inspection Act, Title 26, Chapter 21.
- (6) "Active Treatment" means the habilitative program of care for ICF/MR patients described in 42 CFR Part 483 (1983) that addresses training in daily living, self-help, and social skills; activities; recreation; appropriate staffing level; special resident programs; program evaluation; nursing services; documented resident surveys and progress; and social services.
- (7) "Activities of Daily Living" ("ADL") means those personal functional activities required for an individual for continued well-being; including eating/nutrition, mobility, dressing, bathing, toileting, and behavior management. ADLs are divided into the following levels:
- (a) "Independent" means the resident can perform the ADL without help.
- (b) "Assistance" means the resident can perform some part of an activity, but cannot do it entirely alone.
- (c) "Dependent" means the resident cannot perform any part of an activity; it must be done entirely by someone else.
- (8) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.
- (9) "Affiliation" means a relationship, usually signified by a written agreement, between two organizations, under the terms of which one organization agrees to provide specified services and personnel to meet the needs of the other, usually on a scheduled basis.
- (10) "Aftercare" means post-institution services designed to help a patient maintain or improve on the gains made during inpatient treatment.
- (11) "Aide or Attendant" means a person employed to assist in activities of daily living and in the direct personal care of patients.
- (12) "ADAAG" means the Americans with Disability Act Accessibility Guidelines, 28 CFR 36, Appendix A, July 1993.
- (13) "Ambulatory" means a person who is capable of achieving mobility sufficient to exit his residence without assistance of another person.
- (14) "Annual Report" means a document containing annual statistical information from a licensed health facility or agency.
- (15) "Assessment" means a process of observing, testing and evaluating a patient in order to obtain information.
- (16) "Bathing Facility" means a bathtub or shower.

(17) "Bed Capacity" means the maximum number of beds which the facility is licensed to offer for patient care.

(18) "Behavior Management" means a planned, systematic application of methods and findings of behavioral science with the intent of reducing observable negative behaviors.

(19) "Birthing Room" means a room and environment designed, equipped and arranged to provide for the care of a woman and newborn and to accommodate her support person(s) during the process of vaginal birth.

(20) "Certificate of Completion" means a document issued by the Utah Board of Education to a person who completes an approved course of study not leading to a diploma; to a person who passes a challenge exam for that same course of study; or to a person whose out-of-state credentials and certificate are acceptable to the Board.

(21) "Certified" means a health facility or agency which holds a current license issued by the Department, and which also meets the standards established for participation in federally funded programs, such as Medicare.

(22) "Certified Nurse Aide" means a nursing assistant who has completed a federally approved training program and proved competency through testing, thereby he is entitled to be employed in a licensed health care facility or agency.

~~(22)~~(23) "Certified Registered Nurse Anesthetist" means a registered nurse who is licensed by the Utah Department of Commerce under Title 58 Chapter 31.

~~(23)~~(24) "Certified Nurse Midwife" means an individual licensed to practice by the Utah Department of Commerce under Title 58, Chapter 44.

~~(24)~~(25) "Certified Social Worker" means an individual licensed by the Utah Department Commerce under Title 58, Chapter 60.

~~(25)~~(26) "Chronic Noncompliance" means three or more violations of a single licensing rule requirement which are documented in five inspections, including complaint investigations, surveys, or follow-up inspections on plans of correction, or any combination of them.

~~(26)~~(27) "Clinical Note" means a dated, written notation by a member of the health team which indicates contact with a patient and describes any of the following: signs and symptoms of dysfunction, treatment given or medication administered, the patient's reaction, changes in physical or emotional condition, or services provided.

~~(27)~~(28) "Clinical Staff" means the physicians and certified providers appointed by the governing authority to practice within the health facility or agency.

~~(28)~~(29) "Consultant" means an individual who provides professional services either upon request or on the basis of a prearranged schedule, usually on a contract basis, who is neither a member of the employed staff of the facility or agency, nor whose services are provided within the terms of an affiliation agreement.

~~(29)~~(30) "Continuous Noncompliance" means three or more violations of a single licensing rule requirement occurring within a 12-month time period.

~~(30)~~(31) "Contract Services" means services purchased by a health facility or agency under a contract with an individual or a provider whose personnel are not salaried employees of the facility or agency.

~~(31)~~(32) "Control Station" means a central office or area for charting, drug preparation, and other patient-care tasks normally performed at a nursing station.

~~(32)~~(33) "Critical Care Unit" means a special physical and functional unit for the segregation, concentration and close or continuous nursing observation and care of patients who are critically, seriously, or acutely ill.

~~(33)~~(34) "Day Treatment" means training and habilitation services delivered outside the patient's place of residence which are intended to aid the vocational, pre-vocational, and self-sufficiency skill development of an ICF/MR patient. These services must meet active treatment requirements and must be coordinated and integrated with the active treatment program of the facility or agency.

~~(34)~~(35) "Dentist" means a person registered and currently licensed by the Utah Department of Commerce under Title 58, Chapter 7.

~~(35)~~(36) "Department" means the Utah Department of Health.

~~(36)~~(37) "Developmental Disability" means a severe, chronic disability that meets all of the following conditions:

(a) Is attributable to: cerebral palsy, epilepsy, autism; or any other condition, other than mental illness, closely related to mental retardation which results in impairment of general intellectual functioning adaptive behavior, or requires treatment or services similar to those required for mentally retarded persons;

(b) Is manifested before the person reaches the age of 22;

(c) Is likely to continue indefinitely; and

(d) Results in substantial functional limitations in three or more of the following areas of major activity:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; or

(vi) capacity for independent living.

~~(37)~~(38) "Dietitian" means a person who is certified pursuant to Title 58, Chapter 49.

~~(38)~~(39) "Direct Services" means services provided by salaried employees of a health facility or agency, as opposed to services provided by contract.

~~(39)~~(40) "Direct Supervision" means the critical observation and guidance by a qualified person of another person's activities or course of action.

~~(40)~~(41) "Discharge" means the point at which the patient's involvement with a facility or agency program is terminated and the facility or agency program no longer maintains active responsibility for the care of the patient.

~~(41)~~(42) "Distinct Part" means a discrete, physically definable entity located within a structure constructed and equipped according to applicable codes which:

(a) provides within the structure the necessary unique physical facilities, equipment, staff, and supplies to deliver all basic services that are offered to and needed for the diagnosis, therapy, and treatment of patients, and to comply with licensing standards;

(b) provides or arranges for necessary administrative and non-unique, non-clinical, ancillary type services such as dietary, laundry, housekeeping, business office and medical records; and

(c) protects the rights of patients including freedom from unwanted intrusion by visitors, guests, staff, and residents of adjacent licensed facilities and use occupancies.

~~(42)~~(43) "Documentation" means written supportive information, records, or references to verify information required by law or rule.

~~(43)~~(44) "Drug History" means identifying all of the drugs used by a patient, including prescribed and unprescribed drugs.

~~(44)~~(45) "Emergency" means any situation or event that threatens or poses a threat to the occupants of the facility or agency, or prohibits one or more occupants (staff, patient, or visitor) from receiving services normally offered by the facility or agency, or requires action not normally performed by the facility or agency staff.

~~(45)~~(46) "Emotional or psychological abuse" means deliberate conduct that is directed at a person through verbal or nonverbal means and that causes the individual to suffer emotional distress or to fear bodily injury, harm, or restraint.

~~(46)~~(47) "Environment" means the physical and emotional atmosphere including architectural design, furnishings, color, privacy, and safety, as well as other people.

~~(47)~~(48) "Executive Director" means the Executive Director of the Utah Department of Health.

~~(48)~~(49) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

~~(49)~~(50) "Free-standing Urgent Care Center," as distinguished from a private physician's office or emergency room setting, means a facility which provides out-patient health care service (on an as-needed basis, without appointment) to the public for diagnosis and treatment of medical conditions which do not require hospitalization or emergency intervention for a life-threatening or potentially permanently disabling condition. Diagnostic and therapeutic services provided by a free-standing urgent care center include: a medical history physical examination, assessment of health status and treatment for a variety of medical conditions commonly offered in a physician's office.

~~(50)~~(51) "Governing Authority or Governing Body" means the board of trustees, owner, person or persons designated by the owner with ultimate authority and responsibility, both moral and legal, for the management, control, conduct and functioning of the health care facility or agency.

~~(51)~~(52) "Governmental Unit" means the state, or any county, municipality, or other political subdivision of any department, division, board or other agency of any of the foregoing.

~~(52)~~(53) "Guardian" means a person legally responsible for the care and management of a person who is considered by law to be incompetent to manage his own affairs.

~~(53)~~(54) "Habilitation" means techniques and treatment which actively build and develop new or alternative styles of independent functioning and promote new behavior which results in greater self-sufficiency and sense of well-being.

~~(54)~~(55) "Health Care Facility or Agency" means any facility or agency licensed under the authority of the Health Facility Committee and designated as such in Subsection 26-21-2(10).

~~(55)~~(56) "Health Services Supervisor" means a person with a professional medical license or certificate, such as a nurse, social worker, physical therapist, or psychologist, responsible for the

development, supervision, and implementation of a written health care plan for each resident.]

~~(56) "Home Health Aide" means a person who obtains a certificate of completion from the Department of Education which allows performance of higher-skilled health care and other related services under the supervision of a registered nurse from a home health agency, or performance of simple procedures as an extension of physical, speech, or occupational therapy under the supervision of licensed therapists.]~~

(57) "Homemaker" means a person who cares for the environment in the home through performance of duties such as housekeeping, meal planning and preparation, laundry, shopping and errands.

(58) "Hospitalization" means an inpatient stay of at least 24 hours, or an overnight stay or emergency care, except a stay at a freestanding ambulatory surgical center that meets the requirements of R432-500.

(59) "ICD-9-CM" means the International Classification of Diseases, 9th revision, Clinical Modification, 1986.

(60) "Imminent Danger" means a situation or condition which presents a substantial likelihood of death or serious physical or mental harm to a patient or resident in the facility or agency.

(61) "Inpatient Program" means treatment provided in a suitably equipped setting that provides services to persons who require care that warrants 24-hour supervision.

(62) "Intake" means the administrative and assessment process for admission to a program.

(63) "Interdisciplinary Team" means a group of staff members composed of representatives from different professions, disciplines, or services.

(64) "Involuntary Medication" means medication which is prescribed by the physician but not taken willingly by the patient, and is administered due to compelling medical reasons.

(65) "Joint Commission" means the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(66) "Lavatory" means a plumbing fixture designed and equipped for handwashing purposes.

(67) "License" means the certificate issued by the Department of Health for the operation of the facility or agency. This document constitutes the authority to receive patients and residents and to perform the services included within the scope of the rule and as specified on the license.

(68) "Licensed Practical Nurse (LPN)" means a person registered and licensed by the Utah Department of Commerce under Title 58, Chapter 31.

(69) "Licensed Practitioner" means a health professional whose license allows diagnosis, treatment, and prescribing practices within the scope of the license and established protocols.

(70) "Licensee" means the person or organization who is granted a license to operate a health facility or agency and who has ultimate authority and responsibility for the operation, management, control, conduct, and functioning of the facility or agency.

(71) "Licensing Agency" means the Bureau of Licensing of the Utah Department of Health.

(72) "Licensure" means the process of obtaining official or legal permission to operate a health facility or agency.

(73) "Living Unit" means the area or part of a facility where residents sleep and may include dining and other resident activity areas.

(74) "Low Risk Maternal Mother" means a woman who is in good general health throughout pregnancy and birth and who meets the criteria for low risk birth services as developed by the clinical staff and approved by the governing board and licensing agency for a Birthing Center.

(75) "Maladaptive (negative) Behavior" means behavior that is either self-injurious, or dangerous to others, or environmentally destructive, demonstrating a reduction in or lack of ability necessary to adjust to environmental demands.

(76) "Medical Equipment and Supplies" means items used for therapeutic or diagnostic purposes essential for patient care, such as dressings, catheters, or syringes.

(77) "Medical Staff" means, the organized body composed of all specified professional personnel, appointed by the governing body and granted privileges to practice in the facility or agency.

(78) "Medication" means any drug, chemical compound, suspension, or preparation suitable for internal or external use by persons for the treatment or prevention of disease or injury.

(79) "Mental Retardation" means significantly subaverage general intellectual functioning resulting in, or associated with, concurrent impairments in adaptive behavior and manifested during the developmental period. Significantly subaverage general intellectual functioning is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test. Developmental period is defined as the period between conception and the 18th birthday.

(80) "Mental Disease" means any disease listed as a mental disorder in the ICD-9-CM excluding the codes for senility or organic brain syndrome (290 through 294.9 and 310 through 310.9), the codes for adjustment reaction (309); the codes for psychic factors associated with diseases classified elsewhere (316); and the codes for mental retardation (317 through 319). Codes 314 through 315.9 may also be excluded for individuals suffering impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons. Codes 309 and 316 are also excluded.

(81) "Mobile" means a person who is able to take action for self-preservation under emergency conditions with the assistance of supportive equipment such as crutches, braces, walkers, or wheelchairs, but without the assistance, except for verbal instructions, from other persons.

(82) "Neglect" means the same as 62A-3-301(10).

(83) "New Construction" means any of the following:

(a) New medical or health care facilities licensed under these rules;

(b) Addition(s) to an existing building;

(c) Alteration(s) or modification(s) (other than strictly repair and maintenance) costing more than \$3,000 or that affect the structure, electrical or mechanical system of a health care facility.

(84) "Non-Ambulatory" means unable to walk without assistance of other persons.

(85) "Nursing Care" means assistance provided to sick or disabled individuals, by or under the direction of licensed nursing personnel, for their health care needs.

(86) "Nursing Home" means any facility licensed by the Department as a nursing care facility that provides licensed nursing care and related services to residents who need continuous health care and supervision.

(87) "Occupational Therapist" means a person currently licensed by the Utah Department of Commerce under Title 58, Chapter 42.

(88) "Oral Surgeon" means a person who has successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accrediting body approved by the U.S. Office of Education and is licensed by the Utah Department of Commerce to practice dentistry.

(89) "PRN medication" means medication which is administered pro re nata. Pro re nata means as needed. The time of medication administration is determined by the resident's need.

(90) "Parent Facility" means all free-standing health facilities under a single ownership licensed under Section 26-21-2 except home health agencies. The parent facility includes:

(a) the main structure, wings, or detached buildings where a service within the scope of the facility's license is offered and any detached building used for storage, heating or cooling equipment located on the main grounds bounded by a city, county or a state street or road, or a property line; and

(b) any structure located outside the main facility grounds connected to the main facility by a heating or cooling system or by a covered walkway where a service is provided within the scope of the parent facility's license.

(91) "Patient" means a resident or person receiving care in a health care facility or agency. Patient, client or resident terms are interchangeable meaning a person who is receiving needed services.

(92) "Patient Care Plan" means an integrated plan of care developed for the patient.

(93) "Pediatric Patients" means infants, children, adolescents, and young adults up to the age of 18.

(94) "Personal Care" means assistance provided to residents in activities of daily living.

(95) "Personal Care Aide" means a person who assists patients or residents in the activities of daily living and emergency first aid; and who may be supervised by a licensed nurse.

(96) "Personal Resource Funds" means monies received by a patient from a variety of sources which the patient may spend as needed or desired.

(97) "Personnel" means individual(s) in training or employed by the health care facility or agency.

(98) "Pharmacist" means a person currently licensed by the Utah Department of Commerce to practice pharmacology pursuant to Title 58, Chapter 17.

(99) "Physical Therapist" means a person currently licensed by the Utah Department of Commerce to practice under Title 58, Chapter 24a.

(100) "Physician" means a person who is licensed to practice medicine and surgery by the Utah Department of Commerce under Section 58-67-301, the Utah Medical Practice Act, or Section 58-68-301, Utah Osteopathic Medical Practice Act, or a physician in the employment of the government of the United States who is similarly qualified.

(101) "Place of Residence" means the place a patient makes his home. This may be a house, an apartment, a relative's home, housing for the elderly, a retirement home, an assisted living facility, or a place other than a health care facility which provides continuous nursing care.

(102) "Plan of Care or Plan of Treatment" are interchangeable terms which mean a written plan based on assessment data or physician orders that identifies the patient's needs, who shall provide needed services and how often, treatment goals, and anticipated outcomes.

(103) "Podiatrist" means a person registered and licensed by the Utah Department of Commerce under Title 58, Chapter 5.

(104) "Policies and Procedures" means a set of rules adopted by the governing body to govern the health care facility or agency's operation.

(105) "Practitioner" means a registered nurse, with advanced or specialized training, who is licensed by Utah Department of Commerce, Title 58, Chapter 31a.

(106) "Prognosis" means a statement given as:

(a) the likelihood of an individual achieving stated goals;

(b) the degree of independence likely to be achieved; or

(c) the length of time to achieve goals.

(107) "Program" means a general term for an organized system of services designed to address the treatment needs of the patient.

(108) "Protected Living Arrangement" means provision for food, shelter, sleeping accommodations, and supervision of activities of daily living for persons of any age who are unable to independently maintain these basic needs and functions.

(109) "Provider" means a supplier of goods or services.

(110) "Public Agency" means an agency operated by a state or local government.

(111) "Public Health Center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.

(112) "Qualified Mental Retardation Professional (QMRP)" means a person who has specialized training or one year of experience in treating or working with the mentally retarded including any one of the following: psychologist with a master's degree from an accredited program; licensed physician; educator with a bachelor's degree in education from an accredited program; social worker with a bachelor's degree in social work from an accredited program or a field other than social work and at least three years of social work experience under the supervision of a qualified social worker; licensed physical or occupational therapist; licensed speech pathologist or audiologist; registered nurse; therapeutic recreation specialist who is a graduate of an accredited program and is licensed to perform recreational therapy under the provisions of Title 58, Chapter 40; Rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

(113) "Quality of Care" means the provision of patient treatment, including medical or nursing care as well as restorative therapies.

(114) "Quality of Life" means how a patient experiences the state of existing and functioning in the facility environment, and is related to the human and humane processes involved in normal human functioning, including rights and freedoms.

(115) "Recovery," for birthing centers, means that period or duration of time starting at birth and ending with the discharge of

a client from the birthing center, or the period of time between the birth and the time a mother leaves the premises of the birthing center.

(116) "Recreational Therapist" means any person licensed to perform recreational therapy under the provisions of Title 58, Chapter 40.

(117) "Referred Outpatient" means a person who is receiving his medical diagnosis, treatment, or other health care services from one or more sources outside the hospital, but who receives from the hospital diagnostic tests or examinations ordered by health care practitioners, legally permitted to order such tests and examinations, and to whom the hospital reports findings and results.

(118) "Refurbish" means to clean or otherwise change the appearance without making significant changes in the existing physical structure of a facility.

(119) "Registered Nurse" means any person who is registered and licensed by the Utah Department of Commerce to practice as a registered nurse under Title 58, Chapter 31.

(120) "Rehabilitation" means a program of care designed to restore a patient to a former capacity.

(121) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.

(122) "Remodel" means to reconstruct or to make significant changes in the existing physical structure of a facility.

(123) "Representative" means a person employed by the Department.

(124) "Request for Hearing" means any clear expression in writing by a provider requesting an opportunity to appeal a Department action following R432-30.

(125) "Resident Living" means residential services provided by an ICF/MR facility.

(126) "Responsible Person" means an individual, relative, or close friend designated in writing by the resident, or a court-appointed guardian or person with durable power of attorney, who assists the resident and assumes responsibility for the resident's well-being and for any care not provided by the facility or agency.

(127) "Restrictive Procedures" means a class of procedures designed to reduce or eliminate maladaptive behaviors including:

- (a) restricting an individual's movement;
- (b) restricting an individual's ability to obtain positive reinforcement; and
- (c) restricting an individual's ability to participate in programs.

(128) "Safety Device" means a protective device used to offer protection from inadvertent acts (such as falling out of bed) as well as deliberate acts (such as removing a nasogastric tube).

(129) "Seclusion" means a procedure that isolates the patient in a specific room or designated area to temporarily remove the patient from the therapeutic community and reduce external stimuli.

(130) "Self Administration of Medication" means the act by which a resident independently removes an individual dose from a properly labeled container and takes that medication. The resident must know the medication type, dosage and frequency of administration.

(131) "Service Delivery Area" means any area in the facility where a specific service or group of services is organized,

performed or carried out. For example the dietary services area includes the kitchen; patient care services delivery area includes patient rooms, corridors, and adjacent areas.

(132) "Service Pattern" means a continuum of medical and psychological needs expressed as a type and used in evaluation for appropriate placement and treatment purposes.

(133) "Social Service Worker (SSW)" means a person currently licensed by the Utah Department of Commerce to function as a social service worker under Title 58, Chapter 60.

(134) "Social Worker, Certified (CSW)" means a person currently licensed by the Utah Department of Commerce to practice social work under Title 58, Chapter 60.

(135) "Specialty Hospital" means a hospital which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(136) "Speech-Language Pathologist" means a person licensed by the Utah Department of Commerce to practice speech-language pathology pursuant to Title 58, Chapter 41.

(137) "Substantial Noncompliance" means any occurrence of a Class I violation, or the occurrence of one or more Class II violations resulting in continuous noncompliance, or chronic noncompliance with one or more rule requirements in the administrative rules specific to the health care facility licensure category.

(138) "Summary Report" means a compilation of pertinent facts from the clinical notes regarding a patient, usually submitted to the patient's physician as part of a plan of treatment.

(139) "Supervision" means guidance of another person or persons by a qualified person to assure that a service, function, or activity is provided within the scope of a license, certificate, job description, or instructions.

(140) "Support Person" means the individual(s) selected or chosen by a mother to provide emotional support and to assist her during the process of labor and childbirth.

(141) "Surgeon General" means the surgeon general of the United States public health service.

(142) "Therapist" means a professionally trained licensed or registered person (such as a physical therapist, occupational therapist, or speech therapist), who is skilled in applying treatment techniques and procedures under the general direction of a physician.

(143) "Training and Habilitation Services" means services intended to improve or aid the intellectual, sensorimotor, and emotional development of a patient or resident.

KEY: health facilities

[~~December 14, 1998~~2000

26-21-2

Notice of Continuation January 20, 1999



**Health, Health Systems Improvement,
Health Facility Licensure
R432-700
Home Health Agency Rule**

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE No.: 23114
 FILED: 08/28/2000, 12:16
 RECEIVED BY: NL

Health Systems Improvement,
 Health Facility Licensure
 Second Floor, Martha Cannon Health Building
 288 North 1460 West
 PO Box 142003
 Salt Lake City, UT 84114-2003, or
 at the Division of Administrative Rules.

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Health Technology Certification Center has the responsibility to certify home health aides and certified nurse aides who work in licensed health care settings. This rule change combines the certifications into one, certified nurse aide, and eliminates the home health aide certification.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to delete the "home health aide" terminology and substitute with "certified nurse aide" where ever the term is used in the rule. One spelling error is corrected in Section R432-700-23.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-21-5 and 26-21-2.1

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The cost of amending the rule and distributing a copy of the rule for home health providers can be borne within the current budget. If all 3,000 home health aides become certified nurse aides, then it is estimated that 25 persons may be found to commit abuse or neglect of a patient in a Medicaid/Medicare program. The aggregate cost for having an administrative hearing is \$5,000 or \$200 per hearing.

❖**LOCAL GOVERNMENTS:** If a local government agency operates a home health agency, then each home health aide will be subject to a competency test. Each test is \$46, 3 county governments operate a home health agency. Each agency is estimated to have 30 employees. The aggregate cost is estimated to be \$4,140. The Utah Health Technology Certification center will have an increase in revenues to test each home health aide, however, it is impossible to estimate the cost or the savings when they eliminate the Home Health Aide certification test.

❖**OTHER PERSONS:** Aggregate cost is estimated at \$138,000 (3,000 home health aides times the \$46 1-time testing fee). **COMPLIANCE COSTS FOR AFFECTED PERSONS:** Each individual will pay a 1-time certification fee of \$46. If an individual is alleged to abuse or neglect a patient, once the individual is certified, the Utah Department of Health must offer an administrative hearing at a cost of \$200, prior to entering the individual's name on the registry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change eliminates the "home health aide" category. A single "certified nurse aide" category replaces it. This should provide greater employment opportunities for residents and allow employers to draw from a larger pool of prospective employees at a minimum cost--Rod L. Betit

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debra Wynkoop at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-700. Home Health Agency Rule.

R432-700-21. Nursing Services.

- (1) Nursing services provided through a home health agency shall be under the supervision of a director of nursing services.
- (2) Nursing services shall be provided by or under the supervision of a registered nurse and according to the plan of care.
- (3) When an agency provides or contracts for services, the service shall be provided according to the plan of care and supervised by designated, qualified personnel.
- (4) Nursing staff shall observe, report, and record written clinical notes.
- (5) Nursing services should recognize and use opportunities to teach health concepts to the patient and family.
- (6) All registered nurses or licensed practical nurses employed by, or on contract with, the agency shall have a valid license from the Utah Department of Commerce, Title 58, Chapter 31.
- (7) Licensed nurses shall have the following responsibilities:
 - (a) Administer prescribed medications and treatments according to law and as permitted within the scope of the individual's license;
 - (b) Perform nursing care according to the needs of the patient and as indicated in the written plan of care;
 - (c) Inform the physician and other personnel of changes in the patient's condition and needs;
 - (d) Write clinical notes in the individual patient record for each visit or contact;
 - (e) Teach self-care techniques to the patient or family, or both;
 - (f) Develop plans of care;
 - (g) Participate in in-service programs.
- (8) The director of nursing services shall be responsible for and shall be accountable for the following functions:
 - (a) Designate a registered nurse to act as director of nursing services during his absence;
 - (b) Assume responsibility for the quality of nursing services provided by the agency;

(c) Develop nursing service policies and procedures that must be reviewed annually and revised as necessary;

(d) Establish work schedules for nursing personnel according to patient needs;

(e) Assist in development of job descriptions for nursing personnel;

(f) Complete performance evaluations for nursing personnel according to agency policy;

(g) Direct in-service programs for all nursing personnel.

(9) In addition to the general responsibilities, a registered nurse shall have the following responsibilities:

(a) Make the initial nursing evaluation visit;

(b) Re-evaluate nursing needs based on the patient's status and condition;

(c) Initiate the plan of care and make necessary revisions;

(d) Provide services which require specialized nursing skill;

(e) Initiate appropriate preventive and rehabilitative nursing procedures;

(f) Supervise staff assignments based on specific patient needs, family capabilities, staff training and experience, and degree of supervision needed;

(g) Assist in coordinating all services provided;

(h) Prepare termination of services statements;

(i) Supervise and consult with licensed practical nurses as necessary;

(j) Provide written instructions for ~~home health aides~~ certified nursing aide to ensure provision of required services written in the plan of care;

(k) Supervise ~~home health aides~~ certified nursing aide in the patient's home as necessary, and be readily available for consultation by telephone;

(l) Make supervisory visits with or without the ~~home health aides~~ certified nursing aide's presence as follows:

(i) Initial assessment;

(ii) Every two weeks to patients who receive skilled services;

(iii) Every three months to patients who require long-term maintenance services;

(iv) Any time there is a question of change in the patient's condition.

(10) The licensed practical nurse shall have the following responsibilities:

(a) Work under the supervision of a registered nurse;

(b) Observe, record, and report to the immediate supervisor the general physical or mental condition of the patient;

(c) Assist the registered nurse in performing specialized procedures;

(d) Assist in development of the plan of care.

R432-700-22. ~~Home Health Aides~~ Certified Nursing Aide.

The ~~home health aide~~ certified nursing aide shall have the following responsibilities:

(1) Provide only those services written in the plan of care and received as written instructions from the registered nurse supervisor. If the service is an extension of therapy, the instructions shall be written by the licensed therapist;

(2) Perform normal household services essential to health care at home;

(3) Make occupied or unoccupied beds;

(4) The ~~home health aide~~ certified nursing aide may supervise the patient's self-administration of medication by:

(a) Reminding the patient it is time to take medications;

(b) Opening the bottle cap;

(c) Reading the medication label to patients;

(d) Checking the self-administered dosage against the label of the container;

(e) Reassuring the patient that he is taking the correct dose;

(f) Observing the patient taking his medication.

(5) Perform simple diagnostic activities;

(6) Perform activities of daily living as written in plan of care;

(7) Give nail care as described in the plan of care;

(8) Observe and record food and fluid intake when ordered;

(9) Change dry dressings according to written instructions from the supervisor;

(10) Administer emergency first aid;

(11) Provide escort and transportation to doctor's appointments and elsewhere as part of patient-care services;

(12) Provide social interaction and reassurance to the patient and family in accordance with the plan of care;

(13) Write clinical notes in individual patient records.

(14) ~~Home health aides~~ Certified Nursing Aides shall be at least 18 years old.

(15) ~~Home health aides~~ Certified Nursing Aides shall have received a certificate of completion for the employment position:

(a) The curriculum or the comparable challenge exam shall be offered under the direction of the Utah Board of Education;

(b) If the employee does not have a certificate of completion for the position at the time of employment, completion of the course of study or challenge exam shall occur within six months of the date of hire.

R432-700-23. Personal Care Aides.

(1) Personal care aides shall be at least 18 years of age and have the following responsibilities:

(a) Receive written instructions from the supervisor;

(b) Perform only the tasks and duties outlined in the service agreement;

(c) Have knowledge of agency policy and procedures;

(d) Be trained in first aid;

(e) Be oriented and trained in all aspects of care to be provided to clients;

(f) Be able to demonstrate ~~competency~~ competency in all areas of training for personal care; and

(g) Maintain a minimum of six hours of in-service per calendar year, prorated for the first year of employment;

(2) Personal Care Aides may assist clients with the following activities:

(a) Self-administration of medications by:

(i) reminding the client to take medications, and

(ii) opening containers for the client;

(b) Housekeeping;

(c) Personal grooming and dressing;

(d) Eating and meal preparation;

(e) Oral hygiene and denture care;

(f) Toileting and toilet hygiene;

(g) Arranging for medical and dental care including transportation to and from the appointment;

- (h) taking and recording oral temperatures;
 - (i) Administering emergency first aid;
 - (j) Providing or arranging for social interaction;
 - (k) Providing transportation.
- (3) Personal Care Aides shall document observations and services in the individual client record.

R432-700-26. Therapy Services.

(1) Physical, occupational, speech, and nutrition therapy services offered by the agency, as either direct or contract services, shall be provided by, or under the supervision of, a licensed or certified therapist in accordance with the plan of care under Title 58.

(2) The qualified therapist shall have the following general responsibilities:

- (a) Provide treatment as ordered and approved by the attending physician;
- (b) Evaluate the home environment and make recommendations;
- (c) Develop the plan of care for therapy;
- (d) Observe and report findings about the patient's condition to the attending physician and other agency staff, and document information in the patient's record;
- (e) Advise, consult, and instruct when necessary, other agency personnel and family about the patient's therapy program;
- (f) Provide written instructions for the ~~[home health aide]~~certified nursing aide to promote extension of therapy services;
- (g) Supervise other agency personnel when appropriate;
- (h) Participate in in-service programs.

(3) In addition to the general responsibilities, a physical, speech or occupational therapist may perform the following:

- (a) Provide written instructions for personal care aides and ~~[home health aides]~~certified nursing aides to ensure provision of required services written in the plan of care;
- (b) Supervise aides in the patient's home as necessary, and be readily available for consultation by phone;
- (c) Make supervisory visits with or without the aide's presence, as required.

R432-700-30. Home Health - Personal Care Service Agency.

(1) A Home Health - Personal Care Service Agency provides personal care services exclusively.

(2) The agency shall develop written policies and procedures that address the delivery of personal care services.

(3) The licensee shall appoint by name and in writing a qualified administrator who is responsible for the agency's overall functions.

(a) The administrator shall have at least one year or managerial or supervisory experience.

(b) The administrator shall designate in writing a qualified person who shall act in his absence and the designee shall have sufficient power, authority, and freedom to act in the best interests of the client safety and well being;

(c) The administrator or designee shall be available during the agency's hours of operation.

(4) Each employee shall be licensed, certified or registered as required in R432-700-10.

(5) Each employee shall complete a health screening as described in R432-700-11.

(6) The agency may accept clients for service if the client's needs do not exceed the level of personal care to be provided by the Home Health- Personal Care Service Agency.

(7) A functional assessment shall be completed for each client, prior to admission to the agency and annually thereafter, or at earlier intervals when a significant change in condition occurs.

(a) The functional assessment shall be performed by a licensed health care professional. The assessment shall include a statement from the licensed health care professional that the personal care services can be provided safely to the client.

(b) If the functional assessment reveals that the client's needs exceed the personal care services, the health care professional shall make a referral to a home health agency or other alternative service.

(8) The agency shall obtain a signed and dated service agreement from the client and his responsible party, if available. The service agreement shall include the following:

- (a) A description of services to be performed by the Personal Care Aide;
- (b) Charges for the services;
- (c) A statement that a 30-day notice shall be given prior to a change in charges.

(9) The Home Health-Personal Care Service Agency shall maintain and secure client records for each client receiving services.

(a) Client records shall be retained by the agency for three years following the last date of service;

(b) The client record shall contain the following:

- (i) Client's name, date of birth and address;
- (ii) Client service agreement;
- (iii) Name, address, and telephone number of the individual to be notified in case of accident, emergency or death;
- (iv) Documentation of date and reason for the termination of services, which may include the following:

- (A) Payment for services cannot be met;
 - (B) The safety of the client or provider cannot be assured;
 - (C) The needs of the client exceed the level of care provided by the agency;
 - (D) The client requests termination of services; or
 - (E) The agency discontinues services.
- (v) Documentation of the Personal Care Aide visit.

(10) Personal Care Aides shall meet the qualification of R432-700-23 and be supervised by an individual with the following qualifications:

- (a) A ~~[Certified Home Health Aide]~~Certified Nursing Aide with at least two years experience in personal or home care; or
 - (b) A licensed health care professional.
- ~~—(c) A Certified Nurse Aide does not meet this requirement.—~~

(11) The supervisor shall evaluate and document the quality of the personal care services provided in the client's place of residence every six months.

KEY: health facilities

[February 24, 1998]2000

Notice of Continuation December 15, 1997

26-21-5

26-21-2.1



Health, Health Systems Improvement,
Health Facility Licensure
R432-750
Hospice Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23115
FILED: 08/28/2000, 12:16
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Health Technology Certification Center has the responsibility to certify home health aides and certified nurse aides who work in licensed health care settings. This rule change combines the certifications into one, certified nurse aide, and eliminates the home health aide certification.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to delete the "home health aide" terminology and substitute with "certified nurse aide" where ever the term is used in the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-21-5 and 26-21-6

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The cost of amending the rule and distributing a copy of the rule for home health providers can be borne within the current budget. If all 1,000 home health aides working in Hospice Agencies become certified nurse aides, then it is estimated that 5 persons may be found to commit abuse or neglect of a patient in a Medicaid/medicare program. The aggregate cost for having an administrative hearing is \$1,000 or \$200 per hearing.

❖LOCAL GOVERNMENTS: If a local government agency operates a home health agency, then each home health aide will be subject to a competency test. Each test is \$46, no county governments operate a hospice agency. The Utah Health Technology Certification center will have an increase in revenues to test each home health aide, however, it is impossible to estimate the cost or the savings when they eliminate the Home Health Aide certification test.

❖OTHER PERSONS: Aggregate cost is estimated at \$46,000 (1,000 home health aides times the \$46 1-time testing fee).

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each individual will pay a 1-time certification fee of \$46. If an individual is alleged to abuse or neglect a patient, once the individual is certified, the Utah Department of Health must offer an administrative hearing at a cost of \$200, prior to entering the individual's name on the registry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change eliminates the "home health aide" category. A single "certified nurse aide" category replaces it. This should provide greater employment opportunities for residents and

allow employers to draw from a larger pool of prospective employees at a minimum cost--Rod L. Betit

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

Health
Health Systems Improvement,
Health Facility Licensure
Second Floor, Martha Cannon Health Building
288 North 1460 West
PO Box 142003
Salt Lake City, UT 84114-2003, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop at the above address, by phone at (801) 538-6152, by FAX at (801) 538-6325, or by Internet E-mail at dynkoop@doh.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Health Facility Licensure.

R432-750. Hospice Rule.

R432-750-4. Definitions.

- (1) See common definitions rule R432-1-3.
- (2) Special definitions:
 - (a) "Appropriate" means especially suitable or compatible; fitting.
 - (b) "Bereavement" means the period of time, usually occurring within the first year after the loss, during which a person or group of people experiences, responds emotionally to, and adjusts to the loss by death of another person.
 - (c) "Care" means to perceive and respond to the needs of another.
 - (d) "Continuum" means the uninterrupted provision of services appropriate to the needs of the patient and family; these services are planned, coordinated, and made available by the hospice program.
 - (e) "Family" means a group of individuals living under one roof and under one head; a group of persons of common ancestry; a group of individuals having a personal commitment one to the another.
 - (f) "Grief" means the response to loss that often occurs in stages of varying length. Stages are differentiated by changes in feeling, thought, and behavior.
 - (g) "Hospice" means a public agency or private organization or subdivision of either of these that is primarily engaged in providing care to terminally ill individuals and their families.
 - (h) "Hospice Administrator" means a person who is appointed in writing by the governing body of the hospice organization and who shall be accountable and responsible for implementing the policies and programs approved by the governing body.

(i) "Hospice Care" means the care given to the terminally ill and their families which occurs in a home or in a health facility and which includes medical, palliative, psychosocial, spiritual, bereavement and supportive care and treatment.

(j) "Hospice Inpatient Facility" means a freestanding licensed hospice facility or designated hospice licensed hospice unit in an existing health care facility.

(k) "Interdisciplinary Team" means a team composed of physician (attending and medical director), nurse, social worker, pastoral care provider, volunteer, patient and family, and any other professionals as indicated.

(l) "Palliative Treatment" means treatment and comfort measures directed toward relief of symptoms and pain management rather than treatment to cure.

(m) "Palliative Care" means the care given to the terminally ill, focusing on relief of distressing symptoms

(n) "Pastoral Care Provider" means an individual who has received a degree from an accredited theological school, or an individual who by ordination or by ecclesiastical endorsement from the individual's denomination has been approved to function in a pastoral capacity. A Pastoral Care Provider may also be an individual who has received certification in Clinical Pastoral Education which meets the requirements for the College of Chaplains. The individual shall have experience in pastoral duties and be capable of providing for hospice patients' and families' spiritual needs.

(o) "Primary Care Giver" means the family member or other person designated by the family who assumes the overall responsibility for the care of the patient in the home.

(p) "Special Services" means those services not represented on the interdisciplinary team that may be valuable for specific patient and family needs, including but not limited to nurses, social workers, homemakers, ~~home health aides~~ certified nursing aide, recreation therapists, occupational therapists, respiratory therapists, pharmacists, dieticians, lawyers, certified public accountants, funeral directors, musical therapists, art therapists, speech therapists, physical therapists, and counselors.

(q) "Spiritual" means patient's and families' beliefs and practices as they relate to the meaning of their life, death, and their connection to humanity which may or may not be of a religious nature.

(r) "Terminal Illness" means a state of disease characterized by a progressive deterioration with impairment of function which without aggressive intervention, survival is anticipated to be six months or less.

(s) "Terminal Care" means the care provided to an individual during the final stage of their illness.

(t) "Unit of Care" means the individual to receive hospice services; since the term "unit" means a single, whole thing, hospice defines the patient and family to be the single whole, regardless of the degree of harmony or integration of the parts within that whole.

(u) "Volunteer" means an individual, professional or nonprofessional, who has received appropriate orientation and training consistent with acceptable standards of hospice philosophy and practice; one who contributes time and talent to the hospice program without economic remuneration.

R432-750-22. Other Services.

(1) Other services may include but are not limited to:

- (a) physical therapy;
 - (b) occupational therapy;
 - (c) speech therapy; and
 - (d) ~~home health aides~~ certified nursing aide.
- (2) Services provided directly or through contract shall be ordered by a physician and documented in the clinical record.

KEY: health facilities
[February 25, 1999]2000 26-21-5
Notice of Continuation December 15, 1997 26-21-6



Human Services, Administration,
 Administrative Services, Licensing
R501-7
 Rules for Child Placing Agencies

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23121
 FILED: 08/30/2000, 11:14
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 192, passed during the 2000 Legislative session, required the Office of Licensing to make some changes in the Child Placing Agency rules.
(DAR Note: H.B. 192 is found at 2000 Utah Laws 39, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: Changes in the child placing agency rules include promotion of adoption. Adoption agencies licensed by the Office shall inform potential adoptive parents that children in the custody of the State are available for adoption. Also that some services and financial assistance may be available to defray the costs of adopting these children. Some changes have been made in the structure of the rule to make it more consistent with other rules of the Office.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-2-101 through 62A-2-121

ANTICIPATED COST OR SAVINGS TO:
 ♦THE STATE BUDGET: There should be minimal impact to State budget. There will be copy costs and mailing costs to inform Child Placing Agencies of the changes.
 ♦LOCAL GOVERNMENTS: There are no costs or savings to local government as these rules do not apply to local government.
 ♦OTHER PERSONS: There are no costs involved for other persons. Other persons affected by this rule change are the Child Placing Agencies. The change requires to Child Placing Agencies to notify potential adoptive parents of children available for adoption.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change does not require any additional costs for Child Placing Agencies. The information required to be given to potential adoptive parents can be given at the same time as other information is distributed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No anticipated costs have been identified in relation to this rule change. The rule requires information to be given to potential adoptive parents of the availability of children for adoption.

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

Human Services
Administration, Administrative Services,
Licensing
Room 303
120 North 200 West
Salt Lake City, UT 84114, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Gayle Sedgwick at the above address, by phone at (801) 538-4242, by FAX at (801) 538-4553, or by Internet E-mail at hsadm2.gsedgwic@email.state.ut.us .

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2000

AUTHORIZED BY: Reta D. Oram, Director

R501. Human Services, Administration, Administrative Services, Licensing.

R501-7. ~~[Rules for]~~ Child Placing Agencies.

R501-7-1. ~~[Requirements for Organizations and Administration of Child Placing Agencies:]~~ Authority and Purpose.

Pursuant to 62A-2-101 et seq., the purpose of this rule is to define standards and procedures by which the office of Licensing shall license child placing agencies. ~~[A. Definition~~

~~—Child Placing means receiving, accepting, or providing custody or care for any child under 18 years of age, temporarily or permanently in accordance with 62A-2-101.~~

~~B. Purpose~~

~~—The purpose of a Child Placing Agency is to place the child permanently in a home for adoption or temporarily in a foster home placement.]~~

R501-7-2. Objective.

Pursuant to Section 62A-4a-205.6, the primary objective of a child placing agency shall be to place children permanently in adoptive homes. Whenever that is unachievable, foster home placements shall become an acceptable secondary objective.

R501-7-3. Definition.

"Child placing" means the receiving, accepting, or providing of custody or care for a child under 28 years of age. Where possible, this shall be done permanently in accordance with 62A-2-101(2), or on a temporary basis.

R501-7-4. Requirements for Organizations Administration of Child Placing Agencies.

~~[C.]~~ **A. Administration**

1. In addition to the ~~[following]~~ rules contained herein, all Child Placing Agencies will comply with R501-2, Core Standards.

2. Multiple-Service Agency: When services for birth parents are provided in the same agency that provides adoption services, it is necessary to ensure that full consideration is given to the needs of birth parents, as well as to those of the child. Moreover, the agency shall advertise to the public that it does provide services for birth parents who are not considering adoption, refer to R501-7-~~[3]~~6.

3. Selection and Placement: A child placing agency for adoption or foster care shall not:

a. deny to any person the opportunity to become an adoptive or a foster parent on the basis of race, color, or national origin of the person, or of a child, involved; or

b. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color or national origin of the adoptive or foster parent, or of a child, involved.

4. Legal Responsibility for Child: The agency shall be legally responsible for the well-being of the child following relinquishment of the child until the adoption is finalized, or unless the court places legal responsibility with another party. If the child cannot be adopted, the agency shall continue to be legally responsible for the child, i.e., for making referrals to the appropriate service for continuing care until the agency is discharged.

5. Legal and Other Documents: The agency shall have available and keep in a confidential file all pertinent legal and other documents as available and appropriate, including but not limited to the following:

- a. birth records,
- b. baptismal certificates,
- c. an original of the transfer of parental rights or relinquishment,
- d. decree of termination of parental rights,
- e. copies of divorce papers,
- f. death certificates of adoptive family members or birth parents,
- g. affidavits in cases where a husband is not the father of the child,

h. statement of the birth parents to release information to mutually agreed upon individuals, or waiver of confidentiality,

i. statements of birth and adoptive parents regarding their agreement to exchange information and the conditions, if any, pursuant to contact following placement and legal adoption, and

j. copy of the order of adoption.

6. Minimum Qualifications of Staff: The Executive Director and other staff of the agency shall meet the standards listed below. Department of Human Services Offices staff will be required to meet the personnel and administrative standards as set by State Personnel Policy.

7. Executive Director:

a. The Board of a private agency shall select the Executive Director and delegate to the Executive Director the responsibility for administration of the agency within the general policies of the Board.

b. The Executive Director of a licensed child-placing agency shall be graduated from an accredited four-year college or university, have a master's degree in social work and shall be licensed in accordance with 58-60-204,105 and 58-60-404,405 as a clinical social worker, certified social worker, or professional counselor. In agencies where the Executive Director does not have the appropriate professional license, there shall be a staff member with the appropriate licensure designated as Social Services Director for the agency.

c. In addition, staff identified shall have had two years of full-time paid professional employment in services to children, in a social service setting; one of which must have been in a supervisory or administrative capacity.

8. Casework Supervisor: If an agency has six or more professional staff besides the Executive Director, provisions shall be made for a certified social worker or professional counselor to supervise the additional staff. The certified social worker or professional counselor must have at least one year of full-time paid professional experience in social work. In general, the ratio shall not exceed one certified social worker or professional counselor to eight caseworkers.

9. Social Service Worker: All service workers shall be licensed to practice social work under the laws of the State of Utah.

10. Workloads: The agency shall establish full time workload standards for staff, taking into consideration average time for satisfactory completion of intake; assessment and preparation of adoptive applicants; and post placement and post legal adoptive services to the birth, adoptive parents and adoptive persons. Under no circumstance shall the workload for social work staff working with children under the age of five exceed 20 active cases; for staff working with prospective adoptive parents prior to approval of the family exceed 30 active cases; for staff working with prospective adoptive parents, following approval exceed 60 active cases; for staff working with birth parents exceed 25 active cases; and for staff working with older or special needs children exceed 15 active cases.

11. Staff Development: The agency shall provide opportunities for staff to enhance professional growth through supervision, in-service training and educational leave. The agency shall maintain current adoption literature.

12. Ethical Conduct: A child placing agency shall operate in an ethical manner, including the following:

a. Its governing body, voluntary board, staff and consultants are not favored in applying for or receiving the services of the agency.

b. It receives no payment or other considerations for the referral of any applicant or client.

c. It provides no payment or other considerations to any services provider or other organization or individual for any referral of any applicant for the agency's services.

d. It prohibits the directed referral, or steering, of its applicants, clients, and their families to any private practice in which its staff or consultants may be engaged.

e. It maintains a record of the ownership of all its properties and of all financial transactions it enters into with respect to such properties.

f. The members of the governing body of a private or public agency have no direct or indirect financial interest in the assets or leases of the agency; any member who individually or as part of business or professional firm is involved in the business transactions or current professional services of the agency shall disclose this relationship and shall not participate in any vote taken in respect to such transactions or services.

13. Case Records: The agency shall maintain a case record of each child accepted for care, of the family, and of each adoptive applicant, from the time of the application for service through the completed legal adoption and termination of the agency's service. As a minimum, the record shall contain the following information:

a. application and reason for service,

b. social study,

c. problems and service of the client to these services,

d. progress report, at least quarterly, to include the following,

1) services provided,

2) response of the client to these services, and

3) results,

e. closure, a brief summary of what was accomplished and reason for closure, and

f. dates, places and other pertinent information.

g. Adoptive parents, adoptees, and birth parents shall be encouraged to provide updated information to be added to the file at any time prior to and following finalization proceedings. This updated information may include medical, psychological and social information.

h. Case records shall be continuous records of adjustment, interaction, relationships, physical and mental conditions, growth and development. All records and information shall be confidential.

14. Record Retention: At the completion of the adoption all records pertaining to the adoption must be retained.

15. Confidentiality of Records: All adoption records shall be treated as confidential and be retained in a locked, metal file, accessible to designated personnel only. No formation shall be shared with any person without the appropriate consent forms.

16. Location and Housing: The agency shall be located in an area convenient to the clients it expects to serve. It shall be housed in a setting that is attractive, well maintained and comfortable.

17. Office Space: The facility shall maintain offices to meet the needs of clients being served.

18. Resources: The agency shall have financial resources to support the services offered.

19. Payment of Fees: The agency may charge birth parents and adoptive parents for cost of services provided. However, under no circumstance shall the provision of services to birth parents be contingent upon the ability to pay. A signed fee schedule shall be on file indicating cost of each service. Fees may be charged according to a sliding scale, based upon ability to pay in relation to income or can be set at a uniform amount with a provision in agency policy for reducing or waiving the fee when indicated.

20. Itemization of Expenditures:

An itemization of all allowable expenditures on behalf of birth parents shall be on file. The itemization shall be signed by birth parents and adoptive applicant. If any cost appears to be greater than the ordinary or usual costs, the agency must show that the

expenditure was fit and appropriate. The agency may pay reasonable costs for the following:

- a. legal services related to the adoption,
- b. medical services related to pregnancy, birth, and post-natal care for the birth mother and medical care for the child,
- c. emergency health related services for the birth mother needed to protect the health and well-being of the fetus,
- d. housing, including utilities and basic telephone service,
- e. necessary transportation, including gasoline or public transportation,
- f. purchase of food, necessary household supplies, and personal hygiene or grooming products,
- g. clothing for the birth mother, and
- h. necessary mental health services for the birth mother during the pre and post-natal period.
- i. For other expenses the agency must show that the expenditure was fit and appropriate for the birth parents beyond six weeks postpartum.

21. Itemization of Fees for Adoption:

An itemization of all adoption related expenses shall be filed with the court prior to the final decree of adoption.

22. Statistics: The agency shall maintain accurate statistics on persons served, applications, and dispositions as a minimum.

[23-]B. Indian Child Welfare Act: An agency which serves Indian children must have standards and procedures which also conform to the Indian Child Welfare Act, refer to pl 95-600.

R501-7-[2]5. Services for Foster Care Program.

An agency's foster care program must meet the following requirements:

A. Best Interests of Child: Foster family care is provided for and in behalf of the child under a plan that includes services for the child, the child's family, and supervision of, and support services for the foster family.

B. Permanent Plans: Agency staff must work actively in coordinating services for children in DHS custody, their families, and foster families to return children to their own homes or to achieve permanent arrangements for their care. The agency must maintain written records which meet requirements of 42U.S.C.675, including a plan for the child's permanent placement within 60 days of placement.

C. Intake Services: The agency must have a formal procedure for intake, including a procedure to establish the permanent plan for each child in DHS custody.

D. Requirements for Foster Home Approval:

1. Licensed agencies that provide foster or proctor care shall only approve homes that comply with Foster Care Licensing Rules, R501-12. The agency shall be required to recruit, train, and supervise foster parents as defined by R501-12.

2. Foster families meeting requirements shall be approved or certified by the agency. The agency must maintain written records of annual home approval. The approval process shall include a home study evaluation and a training plan.

3. The agency must have a procedure to revoke or deny home approval.

4. The agency must have a procedure for a foster parent to apply for a waiver of requirements.

5. The agency must have a written agreement with the foster parents which includes the expectations and responsibilities of the

agency, staff, foster parents, the services to be provided, the financial arrangements for children placed in the home, the authority foster parents can exercise on children placed in the home, actions which require staff authorization.

E. Payments: The agency must have a written policy stating the amount and schedule of payment to foster parents for cost of care and services. If the agency makes no payment, the agency shall have a written agreement stating the reasons.

F. Requirements for Placement: The first consideration in placing a child in care shall be the welfare of the child. In determining where a child is placed the agency shall consider proximity to the child's home, placement in the least restrictive setting possible, the ability of the parents to visit; however, the welfare of the child shall override any of these considerations.

G. Foster Care Services: The foster care services provided by an agency shall include:

1. Planning, with participation of the child's biological parents, for care and services to meet the child's individual needs.

2. Planning with biological parents, and with participation of the child where feasible, for stability and permanence in the care of the child. This must include a plan for the parental visits with the child.

3. Providing services to help the child's parents reestablish parental care, maintain parental rights, or where in the best interest of the child, terminate parental rights.

4. Providing a suitable foster family home for the child and planning, with foster parents for the child's supervision, education, health, recreation, and other needs and services. Placement of any child should consider the child's age, behavior, sex, the composition of the foster family, and skills of the foster parents.

5. Obtaining, coordinating, and supervising any needed medical, remedial, or other specialized services or resources with the ongoing participation of the foster parents.

6. Providing ongoing supervision of foster parents to ensure the quality of the care they provide.

H. Termination of Supervision: Supervision of a child by a Division of DHS may only be terminated by court order, unless:

1. The child has been returned to his or her own home and has remained there for a period sufficient to indicate he or she has satisfactorily adjusted to that home;

2. The child has been legally adopted;

3. The child reaches the age of 18, unless the Juvenile Court retains jurisdiction up to age 21; or

4. The Division of DHS transfers responsibility for services to another agency.

R501-7-[3]6. Services for Birth Parents.

A. To ensure that adoption is a suitable plan for the child, and that the interests of children, birth parents, and adoptive parents are protected, comprehensive services must be made available for birth parents, both married and single.

B. Comprehensive services or referral for services, for birth parents shall be provided not as part of an adoption service, but as a separate service geared to the needs of birth parents, including those who are not considering adoption.

C. Support in Planning for the Child:

1. Birth parents shall be supported in making a decision for their child, based on complete and accurate information and without

undue delay, including two face-to-face counseling sessions prior to relinquishment.

2. Birth parents shall be informed of their legal rights, obligations, and responsibilities during face-to-face counseling sessions; they should also receive support in considering what their decision will mean to them and to their child.

3. A birth mother shall wait at least 24 hours after the birth of her child before she may give legal consent to the adoption of her child.

4. Birth parents shall be treated with respect, consideration, fairness, and given full recognition of personal dignity and individuality. Birth parents shall be assisted in consideration and determination of whether they want to disclose their identity, or hear about or from the child directly or indirectly in the future.

D. Agencies cannot guarantee confidentiality in any adoption, nor can the agency guarantee any arrangements for contact and exchanges of information between birth parents and adoptive parents. Birth parents and adoptive parents shall be so advised.

E. Social Services to Birth Parents After Termination or Transfer of Parental Rights: Services shall be available to birth parents after their rights and responsibilities are terminated, as well as after the adoption is finalized. The following services shall be provided to birth parents:

1. Help with the relinquishment process and immediate plans for their own lives.

2. A process where newly learned medical or genetic information that is important to the adopted child, birth parents, or adoptive family can be exchanged.

3. Providing non-identifying information on the potential adoptive family, such as age, physical characteristics, educational achievement, family constellation, profession, nationality, health, other non-identifying information, and reason for adopting.

4. Information shall be shared regarding Utah's Mutual Consent Voluntary Adoption Registry.

F. Agency Records: Birth parents shall sign documents of services received during counseling and relinquishment.

G. Determination of Religion in Which the Child is to be Reared:

1. The agency's policies regarding the consideration of religion in the selection of adoptive families shall be made clear to birth parents.

2. Children who have already established some identification with a particular religious faith of their own shall have the right to have such identification respected in any adoptive placement. Efforts shall be made to place the child within that religious faith. This information shall be documented.

3. Agencies under religious auspices may choose to establish policies and practices that are consistent with their particular religious faith.

H. Involuntary termination of Parental Rights: The agency shall have the responsibility to initiate termination of parental rights proceedings consistent with the applicable Utah statutes.

I. Relinquishment of Parental Rights for Adoption: Counseling shall be provided to the birth parents who are planning to place their child for adoption so the decision can be made as early as possible. In the case of parents who voluntarily relinquish their parental rights to an authorized child welfare agency, proper legal procedures for the termination of parental rights should be ensured.

J. Emotional Readiness to Relinquish Parental Rights: Documents indicating parental willingness to place the child for adoption shall be signed in accordance with the parents' emotional readiness to make the definitive decision, and not in accordance with the immediate needs of an adoptive family.

K. Duration of Parental Responsibility: Parental legal responsibility shall end when an authorized child welfare agency accepts the relinquishment of parental rights and the parental rights are terminated.

L. Establishment of Paternity: Legal paternity proceedings shall not be required as a condition for adoption services.

R501-7-[4]7. Services for Children.

A. Assessment of Children: When it has been determined that adoption is the best plan for a child, an assessment shall be made within 30 days to obtain information to assist in the placement process.

1. Determine whether the child's needs can best be met in adoptive placement, and if so, what kind of adoptive family should be selected for the child.

2. The evaluation shall be used to assist prospective adoptive families to make their decision about the child and birth family.

3. Provide the child with needed information concerning the birth family when appropriate.

B. Developmental History: A developmental history of the child that is as complete as possible, shall be obtained from the birth parent. If the child has been in an out-of-home placement prior to being placed in an adoptive home, information obtained from caseworker observation, pediatrician, foster parents, and if indicated, from nurses, psychologists, and other consultants shall be included. The developmental history shall include the following:

1. birth and health history,

2. early development, particularly indications of the way the child has taken to like, i.e., locomotor development, feeding experiences, temperament, etc.,

3. the child's adaptation to previous living experiences and situations,

4. the child's experience prior to adoptive placement, particularly maternal attitudes during the pregnancy and early infancy, continuity of care and affection, foster placements, and separation experiences,

5. determination of the child's cultural and ethnic background and its impact on values and morals, and

6. language skills, including second language capabilities and other talents and interests.

C. Medical Examination: A medical examination by a qualified physician shall be conducted to determine the state of the child's health, and any known or potentially significant factors that may interfere with normal development or may signal any potential medical problems. At a minimum, the following shall be documented and shared with parents prior to placement:

1. Evaluation of the infant that includes a correlation and interpretation of all available information, such as, genetic, laboratory, etc.

2. Medical care and immunizations.

3. The nature and degree of any existing handicap, complete information about the type of handicap and the concomitant treatment and support programs that should be provided to the child

and adoptive parents, extra costs of medical care that can be anticipated, and plans to subsidize the health care, if so indicated.

D. Psychological Testing: Psychological testing for children should be used selectively and as a tool for observation and diagnosis of current developments, if warranted.

E. Family History: Information should be obtained from the birth parents about their family backgrounds to:

1. Determine whether there are any significant hereditary factors or pathology, including illnesses of the birth mother or father, that may affect the child's development.

2. Assist the adoptive parents and, eventually, the child to understand the family situation, the reasons for adoption, and the birth family histories.

3. Decide, in the case of older children who have lived with their birth families, which characteristics should be given consideration in selecting and preparing for a new family.

F. Evaluation of Children: An interdisciplinary approach based upon the needs of the child is to be used in the selection process either by asking other professionals to submit written recommendations or by inviting them to participate as a member of the placement committee.

G. Timing of Adoptive Placement: Infants under the age of two should be placed with their adoptive families at the earliest time possible after being freed for adoption and directly upon release from the hospital in the case of newborns.

H. Placement of Children Over Five Years of Age: When placing children over the age of five, care shall be taken to ensure that an adequate assessment of their needs is made, that they and the adoptive family are prepared for the placement, and a plan is developed to ensure that the needed services are provided after placement.

I. Temporary Care Before Placement for Adoption: A child that has been freed for adoption and is awaiting placement with an adoptive family shall be placed in a foster home where his or her needs can be met and which can assist in preparing the child for placement in a prospective adoptive home. Children awaiting adoptive placement shall only be placed in group or residential treatment programs when the needs are such that they can only be met in such a setting.

J. Responsibility for a Different Permanency Plan: Children that have been accepted for adoptive placement will have a permanency treatment plan developed with a goal of adoptive placement and finalization, and objectives that focus on assisting the family and child during the transition phase to ensure that ongoing services required are obtained.

K. Supervisory Visits: After a child has been placed in the adoptive home, a social worker shall supervise the placement until finalization to assist with the transition and assist the family in obtaining any needed services. At a minimum, three supervisory visits shall be made so the agency can have sufficient information to make a recommendation regarding finalization.

L. Listing with the Adoption Exchanges: Agencies having a child available for adoption who has not been placed within 60 days of being freed, shall document all efforts to screen the child with other Child Placing Agencies and list the child with inter-state Adoption Exchanges to help find an appropriate placement.

M. Preparation of the Child for Placement: Sufficient time and planning must be provided according to the needs of the child. The child should be helped to accept the adoptive placement and

should be protected insofar as possible from emotional disturbances associated with sudden separation from a known situation.

1. The child who is old enough to comprehend and take some responsibility should have a part in the decision that adoption is the best plan. The child must know that his or her own parents cannot continue to provide care and must accept separation from them in order to become a part of another family.

2. Before meeting with the adoptive parents, the child should know that placement is under consideration. Should the adoptive family decide not to proceed with placement, the worker will help the child to understand the situation in a manner that will minimize any damage to the child.

3. The child should have the opportunity to become acquainted with the new parents gradually. A series of short visits to the adoptive home before placement can be particularly helpful. Such visits should not take place until after adoptive parents have expressed interest in adopting the child.

4. The number and place of visits with adoptive parents, and the time of placement should be determined by the age and the particular needs of the child and the family.

N. Retention of Records: In an effort to prepare for possible requests for information pertinent to a significant medical or hereditary concern on the part of the adoptive family or adult adoptee, the agency shall maintain in the file, medical, historical and developmental information and records about the child and the birth parents, received prior to finalization.

R501-7-[5]8. Services to Adoptive Parents.

A. Services for Adoptive Parents:

1. Discussion of birth parent's rights, including legal rights of the putative father. Provisions shall be made for accessibility to non-identifying information on the child's birth family. Information shall be made available about Utah's Mutual Consent Voluntary Adoption Registry through the Utah Bureau of Vital Records.

2. Individual and group social work counseling shall be provided to help the adoptive parent evaluate and develop their capacities to meet the needs of the children added to the family. This support should continue into the post-placement period when it is necessary and deemed appropriate. If an agency cannot provide this preparation and support, they are responsible for offering another support for the family.

3. Assistance in the selection of a child whose needs the adoptive parents will be able to meet.

4. Preparation of both the child and family for the placement of the child in the home, including discussion and approval of a subsidy when appropriate.

5. If an agency places a child for adoption, that agency is responsible for the supervision of the placement and continued support to the child and family. The agency shall assist with finalization.

B. Basis for Selection of Adoptive Parents:

1. The agency must have a written process for approval of adoptive homes. The pre-adoptive evaluation shall include a series of interviews with the adoptive applicants in the office and at home. If the family has children or other individuals living in the home, they shall be part of the pre and post adoption evaluation and application process. The applicants shall supply names of at least three non-related references. The applicants must be informed, in writing, as to the acceptance or the denial of their application. This

notice must be given in a timely manner with the agency's appeal process.

2. The agency shall select applicants who are able to:
 - a. provide the continuity of a caring relationship,
 - b. provide non-identifying or open linkages to the child's birth family if and when appropriate,
 - c. be informed and sensitive to ethnic, religious, cultural, and racial heritage, and
 - d. demonstrate an ability to understand the needs of a child at various developmental states.

3. Agencies shall assess each applicant from the perspective of what would be in the best interest of a child.

4. No single factor should be decisive in and of itself.

C. Criteria of Capacity for Adoptive Parenthood, Contents of Home Study Evaluation or Pre-Adoptive Evaluation Eligibility:

1. Assessment of adoptive applicants should be designed to provide the best indication of an applicant's capacity for adoptive parenthood; total personality functioning; emotional maturity; quality of spousal relationship, when applicable; capacity to parent children; attitude toward childlessness and readiness to adopt; and reasons for adoption.

2. The agency must have written standards for approval of adoptive families. These standards must include the following items plus other aspects of lifestyle and behavior which reflect the ability to protect, nurture, and care for the child. Agencies shall provide adoptive applicants with a realistic description of their services and procedures.

a. Residence: Adoptive applicants shall reside either within the area that the agency can serve directly, or in an area where the agency can procure services through another agency with acceptable standards.

b. Age: Chronological age alone should not be the determining factor for the selection of adoptive applicants. Utah statutes require that the adoptive parents be at least ten years older than the child placed for adoption. Physical condition and life expectancy of the applicants should be taken into consideration to protect the child against a repeated, foreseeable loss of parents through death or incapacitating illness. Also, it is important for applicants to be physically and emotionally capable of meeting the needs of the children as they grow and develop.

c. Marital Status: When applicants are married, husband and wife shall maintain a residence together and the relationship shall be of sufficient duration to give evidence of its stability. Single parents shall be considered in accordance with their ability to meet the needs of available children.

d. Health of Applicant: A medical history and recent physical examination shall be required as evidence that the applicants have reasonable health and life expectancy, and that the applicants have the physical and emotional ability to fulfill the responsibilities of parenthood.

e. Family Income: Adoptive applicant income shall be sufficient in order to provide financial stability and security for a child. Income alone shall not be the determining factor for the selection of adoptive applicants.

f. Housing: Housing and neighborhood shall provide space and living conditions necessary for health, safety, emotional well-being, and self-respect of the family and the adoptive child. Strict space requirements should not be a deterrent to placement if relationships in the family are satisfactory.

g. Religion: Lack of religious affiliation or of a religious faith should not be a bar to consideration of any applicant to meet the specific needs of a child.

h. Applicant Abilities: Consideration shall be given to the ability of the applicant to meet the specific needs of the individual child.

i. Working Parents: Applicants who work outside the home shall not be excluded from consideration as adoptive parents. Consideration shall be given to a plan to provide security and responsible child care adequate to the individual child's needs.

j. Provisions of R501-14 and R501-18 shall be met.

D. Use of Committee in Placement: The final decision to approve a family for the placement of a child should be the responsibility of the professional staff. The decision shall be made by more than one person. The applicants shall be informed in writing of the decision of the committee. If the agency disapproves the applicants for placement, the applicants are entitled to be informed of this in person and to be given the reasons for the agency decision. They are also entitled to the opportunity to appeal the decision and should be informed of this process in writing. The agency shall maintain a written record of any appeals.

R501-7-[6]9. Services During and After Adoption Placement.

A. Selection of Adoptive Family for Specific Child:

1. The selection of the adoptive family for a specific child shall be made through the use of a multi-disciplinary committee as needed and the final decision shall be based on the family's and the child's suitability for each other. Suitability is determined by the family's ability to meet the individual needs of the child and the capacity of the child to benefit from the family.

2. Consideration for the wishes of the birth parents, the adoptive parents, and the adoptee, when applicable, shall be a part of the selection process.

3. The decision of the committee shall be in writing, signed by all members of the committee, and filed in the case record.

B. Information to Adoptive Parents:

1. Agency adoption fees shall be discussed with the adoptive family prior to starting the application process. A flat fee may be charged for processing application materials, which is not refundable, regardless of whether the family is accepted or not, and an itemized account of the charges shall be made available to the family. Placement fees shall also be discussed with the family prior to applying along with payment schedules, and these fees shall reflect a reasonable cost based on the expenses incurred by the agency.

2. Adoptive parents shall be provided information about the children they adopt and their birth parents, when available, that will help them to:

- a. Understand their child, including talents, special needs or problems.
- b. Decide whether or not they can accept the child.
- c. Feel comfortable about the birth parents and the reasons for placement.
- d. Understand their child's heredity, maturation process, and developmental issues related to adoption.
- e. Talk to their child about their biological origins.

3. Adoptive parents shall be given full disclosure of information about the birth parents and child with the exception of

information deemed by law to be identifying. The information to be shared shall include the following:

- a. developmental and behavioral history,
- b. level of current development,
- c. personality and temperament traits,
- d. medical information,
- e. ethnic background,
- f. cultural hereditary conditions,
- g. prior placement history,
- h. information about the birth parents that would be helpful for the child to know while growing up, such as physical descriptions, special abilities, and personality traits.

i. Agency staff shall be prepared to review with the adoptive family the above information and to help them relate it to present day and placement consideration for their family.

5. When a Child Placing Agency has a child who requires an adoption subsidy, the agency shall coordinate with the state agency to establish the subsidy. Subsidies shall be paid by the state agency based on state policy. The Child Placing Agency shall discuss the subsidy with the family.

C. Pre and Post Placement Services: The Child Placing Agency shall provide continuing support and help to the child and his or her adoptive family as needed during the time after placement both before and following the legal adoption. These services shall be recorded and include:

1. The agency shall inform the adoptive family, prior to placement, of the available services, so that the family shall view the services as a source of help and security.

2. The agency has a protective function when the child's custody remains with the agency during the placement prior to finalization, and is responsible for determining that the child's adjustment and development is satisfactory and that the family is able to cope with any difficulties. This may be accomplished through direct services and, when necessary, referring to specialized services.

3. The agency shall provide assistance to the family in helping their child, friends, family members, extended family members, neighbors, schools, etc., understand the adoption process. This shall be accomplished through individual interviews, family counseling services, selected literature, and consultation.

4. The agency shall provide services to the adoptive family that will assist them in understanding their own feelings, the adjustments of adding a child to their family, understanding the complicated feelings of the child, the specialized services that their child may need in the home and out of the home. This shall be accomplished through individual sessions and family support groups.

5. The frequency of home visits, office contacts, telephone calls, and other contacts shall depend on whether the child is an infant, an older child, or a child with medical or other difficulties, and whether the adoptive parents are faced with unanticipated problems. Early placement visits shall convey the agency's support and readiness to help. A contact soon after placement is essential in building the relationship and shall take place within two weeks of placement. A minimum of three supervisory visits shall take place before finalization, with at least two visits in the home.

6. The length of time between placement and finalization shall be determined by Utah State Law. Finalization shall not take place until the family and the agency have determined that they are ready.

The post-placement period, however, shall not go on indefinitely. In each case, a plan shall be made for the time likely to be needed, with an outer limit set.

7. The agency shall consider removal of children before legal adoption only if circumstances impair their security in the family or jeopardize their physical and emotional development. These circumstances might include incompatibility, mental illness, seriously incapacitating illness, or the death of one of the adoptive parents, separation of adoptive parents, abuse, neglect, or rejection of the child, lack of attachment to the child, an unanticipated physical or mental problem of the child, or request by the adopting parents for the removal of the child.

8. The agency shall offer supportive services to maintain the family and document this support. Services may include the following:

- a. respite care for the child,
- b. counseling services, and
- c. family and adoption committee review of placement and planning.

D. Post Adoption Services: Adoption services shall be made available to birth and adoptive parents and adopted persons after the legal adoption. These services shall respond to matters related to the adoption, and will include the following:

1. Information, counseling services within the agency or referral to proper resources for counseling, crisis intervention, respite care, and specialized support groups.

2. Adoptees shall be offered post-legal adoption services that assist them in exploring their attitudes toward themselves as adopted persons.

3. Within the relevant statutes, child welfare agencies shall assist adopted persons who have reached the age of majority in their search for information about, or their wish to establish contact with birth parents, siblings, or other members of their birth family, provided that these persons are willing.

R501-7-[7]10. Adoption and the Community.

A. Adoptions in Relation to Community Child Welfare Programs: Private and public agencies shall:

1. List waiting children with local and regional exchanges.
2. Be active in interpreting child welfare programs and adoption services to assure widest utilization by persons needing the services, and to ensure realistic understanding of services by the public.

3. Participate in any joint inter-agency planning and coordination to maximize programs so that birth parents and adoptive applicants will have freedom of choice and equal opportunity to apply for services, regardless of racial, ethnic, religious group, or ability to pay a fee.

B. ~~Expansion~~Promotion of Adoption Services:

1. Adoption agencies shall ~~have in place methods to serve children awaiting for adoption, particularly those hard to place children for whom there are limited resources as follows:~~ inform each potential adoptive parent that children in the custody of the state are available for adoption, and that parents may request the following:

~~[a. Public information about programs so that persons needing services will know where to obtain the services:~~

~~b. Access to adoption subsidies for families accepting hard to place children:~~

~~c. An adequate number of adoptive families for hard to place children.~~

~~d. Services available after placement and legal adoption.~~

~~2. Adoption agencies shall have in place a method to determine unmet placement needs and a plan to recruit adoptive families when needs are identified.~~

~~3. Recruitment efforts shall involve adoptive parents and include use of persons of similar ethnic or racial groups as the children requiring families, as well as coordination with ethnic and cultural minority groups, religious, and other civic groups as needed.~~
a. Medicaid coverage for medical, dental, and mental health services;

b. Tax benefits or financial assistance to defray the costs of adopting these children;

c. Training and ongoing support for the adoptive parents of these children, and

d. Information about individual children, which may be obtained by contacting the Division offices or its internet site.

2. Adoption agencies shall provide the following information to adopting parents:

a. Notice about children in state's custody;

b. A copy of a pamphlet prepared by the Division of Child and Family Services that explains about adoption of children in the State's custody;

3. Adoption agencies shall establish a method to determine unmet placement needs and a plan to recruit adoptive families when needs are identified.

4. Recruitment efforts shall involve adoptive parents and shall include persons of similar ethnic or racial groups whenever children need to be placed with families of similar ethnic origin. Recruitment efforts shall seek to enlist the involvement of ethnic and cultural minority groups, religious, and other civic groups as needed.

C. Legal Protection Required for Adoption Services: Adoption agency mission statements, policies, and procedures shall assure that the following legal protections are met:

- 1. The best interests of the child are paramount.
- 2. Parental rights and responsibilities are safeguarded.
- 3. Children are not deprived unnecessarily of either birth parents or a permanent family.
- 4. Legal responsibility for the child will be clearly established at all times.
- 5. Children will not be placed in unsuitable families or families detrimental to the child's growth and development.

D. Transfer of Parental Rights:

1. Adoption agency policies and procedures shall assure an orderly adoption process for the following:

- a. The legal separation of the child from birth parents.
- b. Transfer of custody and guardianship of the child.
- c. Consent to a specific adoption.
- d. Final transfer of parental rights and duties to the adoptive parents.

2. Agencies shall follow Utah State Statutes regarding the relinquishment of children, termination of parental rights, placement, and finalization procedures.

- 3. Legal risk adoptions shall be made only when:
 - a. The child's best interests are served.
 - b. Adoption is clearly the goal.

c. Termination is likely and able to be obtained in a reasonable time period.

d. Adoptive parents have given written consent, indicating that they are fully informed of the risks involved.

R501-7-[8]11. Interstate or Out-of-Country Adoptions.

A. For interstate placements, adoption agencies shall comply with requirements of the Interstate Compact for Placement of Children.

B. Prior to an adoption or placement with a family out of the state, the agency shall complete a plan with the other agency which defines financial and social services responsibilities.

C. International adoption agencies shall abide by all applicable Federal, State, and Immigration laws and regulations, and shall document that:

- 1. The child is legally freed for adoption in the country of origin.
- 2. Information was provided about the physical or mental health of the orphan or abandoned child.
- 3. Referral information was given to the adopting parents about naturalization proceedings.
- 4. The country of origin was provided all follow-up information as that country requires prior to final adoption.
- 5. Agencies which place children in inter-country adoptions shall ensure that the following legal processes occur properly:
 - a. consent to adoption and transfer of parental rights,
 - b. legal responsibility for the child in the new country,
 - c. validity of the adoption in the country of origin, if they are adopted in that country, and
 - d. application to adopt or re-adopt the child or children in the United States, as applicable.

D. The same standards shall apply to home studies for out-of-country children as for all adoption services.

E. International Adoption Agencies shall do the following:

- 1. Provide all applicants with policies governing refunds when adoption services that have been promised are not rendered or when there is a disruption of services that may nullify an adoption.
- 2. Notify adoptive applicants within five working days whenever it receives information that a foreign country is suspending its adoption program.
- 3. Verify the credentials and qualifications of agents in foreign countries working in their behalf on adoption matters.
- 4. Disclose data to adoptive applicants on their rates of successful adoptions and requests.

KEY: licensing, human services, child placing
[September 1, 1999]2000 62A-2-101 et seq.
Notice of Continuation September 2, 1997



Natural Resources, Wildlife Resources
R657-9
Taking Waterfowl, Wilson's Snipe and Coot

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23123

FILED: 08/30/2000, 16:55

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to federal regulations, and Wildlife Board meetings conducted annually for taking public input and reviewing the division's waterfowl program.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to comply with federal regulations in taking migratory game birds on or over lands or areas that are not otherwise baited areas. The amendment adds tungsten and tin shot to the definition of nontoxic shot. Provisions of this rule are being amended to clarify and make consistent application and drawing procedures for swan permits. The closed area provision is amended to include the Great Salt Lake Marina and adjacent areas posted as closed to hunting. Provisions are added to clarify that falconers must obtain an annual Wildlife Habitat Authorization, small game or combination license and migratory bird stamp, in addition to the falconry license to hunt waterfowl. Also, the amendment allows a person to register online to obtain their Migratory Game Bird Harvest Information Program registration number. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 50 CFR 20, 1999

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment clarifies existing requirements and complies with federal regulations, specifically baiting regulations, which are now less restrictive and as a result may require less monitoring and enforcement. The amendment to close the adjacent areas of the Great Salt Lake Marina will cost the Division for the development and placement of closure signs. This cost is slight and will be less than \$500.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖OTHER PERSONS: The amendments are for clarification and complying with federal regulations, therefore, the amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the amendments clarify existing requirements and comply with federal regulations, which are less restrictive. The amendments also provide another means of registering for a Migratory Game Bird Harvest Information Program registration number, adding convenience to affected persons.

However, there are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.**R657-9. Taking Waterfowl, Wilson's Snipe and Coot.****R657-9-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, and in accordance with 50 CFR 20, 50 CFR 32.64 and 50 CFR 27.21, 1999 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking waterfowl, Wilson's snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-4. Permit Applications for Swan.

(1) Applications for swan permits are available from license agents and division offices. Residents and nonresidents may apply.

(2)(a) Applications must be mailed by the date prescribed in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot. [~~Late applications will be returned unopened.~~]

(b) If an error is found on the application, the applicant may be contacted for correction.

(c) The division reserves the right to correct applications.

(3)(a) Late applications will not be considered in the drawing, but will be processed for the purpose of entering data into the division's draw database to provide:

(i) future pre-printed applications;

(ii) notification by mail of late application and other draw opportunities; and

(iii) re-evaluation of division or third-party errors.

(b) The handling fee will be used to process the late application. Any license or Wildlife Habitat Authorization fees submitted with the application shall be refunded.

(4) A person may obtain only one swan permit each year

~~[(4)]~~(5) A person may not apply more than once annually.

~~[(5)]~~(6) Group applications are not accepted.

~~[(6)]~~(7) A Wildlife Habitat Authorization and small game or combination license may be purchased before applying, or the Wildlife Habitat Authorization and small game or combination license will be issued to the applicant upon successfully drawing a permit. The Wildlife Habitat Authorization number or the fee must be submitted with the application.

~~[(7)]~~(8) Each application must include:

(a) a \$5 nonrefundable handling fee;

(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased; and

(c) the small game or combination license fee, if it has not yet been purchased.

(9)(a) Personal checks, cashier's checks, money orders and credit cards are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

(c) All payments must be made payable to the Utah Division of Wildlife Resources.

(10) Credit cards must be valid at least 30 days after the drawing results are posted.

(11) Handling fees are charged to the credit card when the application is processed.

(12)(a) An application is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.

(b) The division charges a returned check collection fee for any checks returned unpaid from the bank.

~~[(10)(a)]~~(13)(a) A license or permit shall be legally deemed invalid if payment is not received for that license or permit, or a check is returned unpaid from the bank or the credit card is invalid or refused and a person has received the license or permit.

(b) Hunting with a license or permit where payment has not been received for that license or permit constitutes a violation of hunting without a valid license or permit.

R657-9-5. Drawing.

(1)(a) Drawing results are posted at the Lee Kay Center for Hunter Education, Cache Valley Hunter Education Center~~[and]~~, division offices and on the division Internet address on the date published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot.

(b) Any remaining permits are available by mail-in request or over the counter at the Salt Lake division office beginning on the date specified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

(2) Licenses and permits are mailed to successful applicants.

(3) An applicant may withdraw their application for the swan permit drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot.

(4) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake Division office.

(5) An applicant may not amend a withdrawn application, nor reapply after the application has been withdrawn.

(6) Handling fees will not be refunded.

R657-9-32. Closed Areas.

(1) A person may not trespass on state waterfowl management areas except during prescribed seasons, or for other activities as posted without prior permission from the division.

(2) A person may not participate in activities that are posted as prohibited.

(3) A person may not trespass, take, hunt, shoot at, or rally any waterfowl, snipe, or coot in the following specified areas:

(a) Brown's Park - That part adjacent to headquarters.

(b) Clear Lake - Spring Lake.

(c) Desert Lake - That part known as "Desert Lake."

(d) Farmington Bay - Headquarters area, within 600 feet of dikes and roads accessible by motorized vehicles and the waterfowl rest area in the northwest quarter of unit one as posted.

(e) Ogden Bay - Headquarters area.

(f) Public Shooting Grounds - That part as posted lying above and adjacent to the Hull Lake Diversion Dike known as "Duck Lake."

(g) Salt Creek - That part as posted known as "Rest Lake."

(h) Bear River Migratory Bird Refuge - For information contact the refuge manager, U.S. Fish and Wildlife Service, at (435) 723-5887. The entire refuge is closed to the hunting of snipe.~~[Bear River Refuge will not be open for the special youth hunting day.]~~

(i) Fish Springs and Ouray National Wildlife Refuges - Waterfowl hunters must register at Fish Springs refuge headquarters prior to hunting. Both refuges are closed to the hunting of swans, and Fish Springs is closed to the hunting of geese.

(j) State Parks

Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated open by appropriate signing ~~[(R651-603-5)]~~ as provided in Rule R651-614-4.

(k) Great Salt Lake Marina and adjacent areas as posted.

(l) Millard County

Gunnison Bend Reservoir and that part of the inflow area as marked and posted.

(m) Salt Lake International Airport - Hunting and shooting prohibited as posted.

R657-9-35. Migratory Game Bird Harvest Information Program (HIP).

(1) A person must obtain an annual Migratory Game Bird Harvest Information Program (HIP) registration number to hunt migratory game birds.

(2)(a) A person must call 1-800-WETLAND (1-800-938-5263) or register online at the address published in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe and coot to obtain their HIP registration number. Use of a public pay phone will not allow access to 1-800-WETLAND.

(b) A person must write their HIP registration number on their current year's hunting license.

(3) Any person obtaining a HIP registration number will be required to provide their:

(a) hunting license number;

(b) hunting license code key;

- (c) name;
- (d) address;
- (e) phone number;
- (f) birth date; and
- (g) information about the previous year's migratory bird

hunts.

(4) Lifetime license holders will receive a sticker every three years from the Division to write their HIP number on and place on their lifetime license card.

(5) Any person hunting migratory birds will be required, while in the field, to prove that they have registered and provided information for the HIP program.

KEY: wildlife, birds, migratory birds, waterfowl*
~~October 16, 1999~~2000 23-14-18
 Notice of Continuation August 25, 1997 23-14-19
 50 CFR part 20



Natural Resources, Wildlife Resources
R657-10
Taking Cougar

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 23124
 FILED: 08/30/2000, 16:55
 RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted annually for taking public input and reviewing the division's cougar program.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to clarify and make consistent application and drawing procedures for limited entry cougar permits. The Furbearer provisions are being deleted due to the same provisions being in Rule R657-11, Taking Furbearers. Provisions are being added to allow a person to specify more than one cougar harvest objective management unit in which their permit will be valid until the harvest objective for those units are met. In addition, provisions are being added to require any person taking a cougar with a harvest objective permit to report to the Division of Wildlife where the cougar was taken. Other changes are made for consistency and clarity.

(DAR Note: The proposed changes to R657-11 are under DAR No. 23125 in this *Bulletin*.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This amendment clarifies existing requirements and allow the opportunity for persons to select more than one harvest objective management unit whereby the permit will be valid until the harvest objective for that unit is met. Therefore, these amendments do not create a cost or savings impact to the division's budget or the state budget.

❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.

❖OTHER PERSONS: The amendments are for clarification and allow the opportunity for persons to select more than one harvest objective management unit whereby the permit will be valid until the harvest objective for that unit is met. The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the amendments clarify existing requirements and allow the opportunity for persons to select more than one harvest objective management unit whereby the permit will be valid until the harvest objective for that unit is met. Therefore, there are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: John Kimball, Director

R657. Natural Resources, Wildlife Resources.
R657-10. Taking Cougar.



R657-10-3. Permits for Taking Cougar.

(1)(a) To harvest a cougar, a person must first obtain ~~an annual Wildlife Habitat Authorization and a~~ a valid limited entry cougar permit or a harvest objective cougar permit for ~~the~~ the specified management ~~unit~~units as provided in the proclamation of the Wildlife Board for taking cougar.

(b) Any person 14 years of age or older must purchase an annual Wildlife Habitat Authorization before purchasing a limited entry cougar permit or a harvest objective cougar permit.

(c) Any person who obtains a limited entry cougar permit or a harvest objective cougar permit may pursue cougar on the unit for which the permit is valid.

(2) To pursue cougar, a person must first obtain an annual Wildlife Habitat Authorization and a cougar pursuit permit from a division office. A cougar pursuit permit does not allow a person to kill a cougar.

(3) A person may not apply for or obtain more than one cougar permit for the same season, except:

(a) as provided in Subsection R657-10-~~27(3)~~26(3); or

(b) if the person is unsuccessful in the limited entry drawing, the person may purchase a harvest objective permit.

(4) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

R657-10-4. Permit Exchanges.

(1)(a) Any person who has obtained a harvest objective cougar permit may exchange that permit for any other harvest objective ~~unit~~units provided the unit ~~objective has~~objectives have not been met and the ~~unit is~~units are still open.

(b) Limited entry cougar permits may not be exchanged.

(2)(a) A \$5 handling fee will be charged for the exchange of a harvest objective permit.

(b) Any person who exchanges a harvest objective permit must complete a questionnaire at the time the exchange is made.

(3)(a) Any harvest objective permit exchanged is not valid until the day after the exchange is made.

(b) Harvest objective permits may be exchanged only at division offices.

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R657-10-9. State Parks.

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated by the Division of Parks and Recreation in Section R651-~~603-5~~614-4.

(2) Hunting with a rifle, handgun or muzzleloader in park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps and developed beaches.

(3) Hunting with shotguns and archery tackle is prohibited within one quarter mile of the above stated areas.

.....

R657-10-24[- Taking Furbearers.

~~(1) Furbearers, including badger, beaver, black-footed ferret, bobcat, fisher, red fox, gray fox, kit fox, lynx, marten, mink, otter, ringtail, skunk, weasel, wolf and wolverine may be taken only in accordance with the furbearer proclamation.~~

~~(2) A person may not disturb, remove or possess a trap, trapping device or any wildlife held in a trap without first obtaining written permission from the trap owner.~~

R657-10-25]. Taking Cougar.

(1)(a) A person may take only one cougar during the season and from the area specified on the permit.

(b) Limited entry permits may be obtained by following the application procedures provided in this rule and the proclamation of the Wildlife Board for taking cougar.

(c) Harvest objective permits may be purchased over-the-counter at division offices.

(2) A person may not:

(a) take or pursue a female cougar with kittens; or

(b) repeatedly pursue, chase, tree, corner, or hold at bay, the same cougar during the same day after the cougar has been released.

(3) Any cougar may be taken during the prescribed seasons, except a kitten with spots or any cougar accompanied by young.

(4) The division may authorize hunters who have obtained a limited entry cougar permit to take cougar in a specified area of the state in the interest of protecting wildlife from depredation.

(5) Season dates, closed areas, harvest objective permit areas and limited entry permit areas are published in the proclamation of the Wildlife Board for taking cougar.

R657-10-~~26~~25. Extended and Preseason Hunts.

(1) An extended or preseason hunt may be authorized by the division on selected cougar management units to control depredation or nuisance problems.

(2) The director may authorize only those hunters who drew a limited entry permit or have purchased a harvest objective permit to hunt on that management unit and participate in a preseason or extended season hunt.

R657-10-~~27~~26. Cougar Pursuit.

(1) Cougar may be pursued only by persons who have obtained an annual ~~Wildlife Habitat Authorization and a~~ cougar pursuit permit. The cougar pursuit permit does not allow a person to kill a cougar.

(2) A person may not:

(a) take or pursue a female cougar with kittens;

(b) repeatedly pursue, chase, tree, corner or hold at bay, the same cougar during the same day; or

(c) possess a firearm or any device that could be used to kill a cougar while pursuing cougar.

(3) If eligible, a person who has obtained a cougar pursuit permit may also obtain a limited entry cougar permit or harvest objective cougar permit.

(4) Cougar may be pursued only on limited entry units or harvest objective units during the dates provided in the proclamation of the Wildlife Board for taking cougar.

(5) A cougar pursuit permit is valid on a calendar year basis.

R657-10-~~28~~27. General Application Information.

(1) A person must obtain or apply for an annual Wildlife Habitat Authorization before the division may issue a cougar permit.

(2) A person may not apply for or obtain more than one cougar permit for the same year, except as provided in Section R657-10-4.

(3) A person must be 12 years of age or older ~~[prior to]~~ by the ~~[last day]~~ posting date of the ~~[application period]~~ drawing to apply for a limited entry cougar permit.

(4) Limited entry cougar permits are valid only for the management unit and for the specified season designated on the permit.

R657-10-~~[29]~~28. Waiting Period.

(1) Any person who obtained a limited entry permit valid for the current season may not apply for a permit for a period of two years.

(2) Any person who draws a limited entry permit for the current season may not apply for a permit for a period of two years.

(3) Waiting periods are not incurred as a result of purchasing harvest objective permits.

R657-10-~~[30]~~29. Application Procedure.

(1) Applications are available from license agents and division offices.

(2)(a) Group applications are not accepted. A person may not apply more than once annually.

(b) Applicants may select up to three management unit choices when applying for limited entry cougar permits. Management unit choices must be listed in order of preference.

(3) A Wildlife Habitat Authorization may be purchased before applying, or the Wildlife Habitat Authorization will be issued to the applicant upon successfully drawing a permit. The Wildlife Habitat Authorization number or fee must be submitted with the application.

(4)(a) Applications must be mailed by the date published in the proclamation of the Wildlife Board for taking and pursuing cougar. ~~[- Applications filled out incorrectly or received later than the date published in the cougar proclamation may be rejected. Late applications will be returned unopened.]~~

(b) If an error is found on the application, the applicant may be contacted for correction.

(c) The division reserves the right to correct applications.

(5)(a) Late applications will not be considered in the drawing, but will be processed for the purpose of entering data into the Division's draw database to provide:

(i) future pre-printed applications;

(ii) notification by mail of late application and other draw opportunities; and

(iii) re-evaluation of Division or third-party errors.

(b) The \$5 handling fee will be used to process the late application. Any license or Wildlife Habitat Authorization fees submitted with the application will be refunded.

~~(6)~~(5) Any person who applies for a hunt that occurs on private land is responsible for obtaining written permission from the landowner to access the property. To avoid disappointment and wasting the permit and fee if access is not obtained, hunters should get written permission before applying. The division does not guarantee access and does not have the names of landowners where hunts occur.

~~(6)~~(7) Only a resident may apply for or obtain a resident permit and only a nonresident may apply for or obtain a nonresident permit, except as provided in Section R657-10-~~[32]~~31.

(8) To apply for a resident permit, a person must establish residency at the time of purchase.

(9) The posting date of the drawing shall be considered the purchase date of a permit.

R657-10-~~[31]~~30. Fees.

(1) Each application must include:

(a) the permit fee, which includes the nonrefundable handling fee; and

(b) the Wildlife Habitat Authorization fee, if it has not yet been purchased.

(2)(a) Personal checks, cashier's checks, money orders and credit cards are accepted.

(b) Personal checks drawn on an out-of-state account are not accepted.

(c) Third-party checks will not be accepted.

(d) All payments must be made payable to the Utah Division of Wildlife Resources.

(3)(a) Credit cards must be valid at least 30 days after the drawing results are posted.

(b) Handling fees are charged to the credit card when the application is processed. Permit fees are charged after the drawing, if successful.

(4)(a) An application is voidable if the check is returned unpaid from the bank or the credit card is invalid or refused.

(b) The division charges a returned check collection fee for any checks returned unpaid from the bank.

(5)(a) A permit shall be legally deemed invalid if payment is not received for that permit, or a check is returned unpaid from the bank or a credit card is invalid or refused, and a person has received the permit.

(b) Hunting with a permit where payment has not been received for that permit constitutes a violation of hunting without a valid permit.

(6) Permits are mailed to successful applicants.

(7)(a) Unsuccessful applicants, who applied in the drawing and who applied with a check or money order, will receive a refund in December.

(b) Unsuccessful applicants, who applied with a credit card, will not be charged for a permit.

(c) The handling fees are nonrefundable.

R657-10-~~[32]~~31. Drawing and Remaining Permits.

(1) Drawing results will be posted on the date published in the proclamation of the Wildlife Board for taking cougar at division offices, Lee Kay Center for Hunter Education ~~[-and]~~, Cache Valley Hunter Education Center and on the division Internet address.

(2)(a) Beginning on the date published in the proclamation of the Wildlife Board for taking cougar, any resident limited entry permits remaining after the drawing are available to residents and any nonresident limited entry permits remaining after the drawing are available to nonresidents from the Salt Lake division office by mail-in application. These permits are sold on a first-come, first-served basis.

(b) Beginning on the date published in the proclamation of the Wildlife Board for taking cougar, residents or nonresidents may purchase any of the remaining permits by mail-in application from the Salt Lake division office.

(3) Any limited entry cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(4) Waiting periods do not apply to the purchase of remaining limited entry permits after the drawing. However, waiting periods are incurred as a result of purchasing remaining permits after the drawing. Therefore, if a remaining permit is purchased in the current year, waiting periods will be in effect when applying for limited entry permits in the drawing in following years.

(5)(a) An applicant may withdraw their application for the limited entry cougar permit drawing by requesting such in writing by the date published in the proclamation of the Wildlife Board for taking cougar.

(b) The applicant must send their notarized signature with a statement requesting that their application be withdrawn to the Salt Lake division office.

(c) An applicant may not amend a withdrawn application, nor reapply after the application has been withdrawn.

(d) Handling fees will not be refunded.

R657-10-~~33~~32. Bonus Points.

(1) A bonus point is awarded for a valid unsuccessful application in the drawing.

(2) Bonus points are forfeited if the person obtains a permit, including any limited entry permit obtained after the drawing.

(3) The purchase of a harvest objective permit will not affect bonus points.

(4) Bonus points are not transferable.

(5) Bonus points are tracked by using the applicant's social security number or division-issued hunter identification number.

R657-10-~~34~~33. Harvest Objective General Information.

(1) A person must obtain an annual Wildlife Habitat Authorization before the division may issue a cougar permit.

(2) Harvest objective permits are valid only for the management ~~[unit]~~units designated on the permit and for the specified ~~[season designated on the permit.]~~seasons published in the proclamation of the Wildlife Board for taking cougar.

(3) Residents may select up to two harvest objective management units and nonresidents may select up to three harvest objective management units, wherein the permit will be valid.

(4) Harvest objective permits are not valid in a specified management unit after the harvest objective has been met for ~~[the]~~that specified management unit.

R657-10-~~35~~34. Harvest Objective Permit Sales.

(1) Harvest objective permits are available to residents and nonresidents over-the-counter beginning on the date published in the proclamation of the Wildlife Board for taking cougar from division offices.

(2) Any cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(3) Any harvest objective permit exchanged is not valid until the day after the exchange is made.

R657-10-~~36~~35. Harvest Objective Unit Closures.

(1) To hunt in a harvest objective unit, a hunter must call 1-888-668-LION to verify that the cougar management unit is still open. The phone line will be updated each day by 8 p.m.

(2) Harvest objective units are open to hunting until:

(a) the female cougar sub-objective for that unit is met;

(b) the cougar harvest objective for that unit is met; or

(c) the end of the hunting season as provided in the proclamation of the Wildlife Board for taking cougar.

(3) Upon closure of a harvest objective unit, a hunter may not take or pursue cougar except as provided in Section R657-10-~~27~~26.

(4) Any person who obtains a harvest objective cougar permit may exchange that permit as provided in Section R657-10-3.

R657-10-36. Harvest Objective Unit Reporting.

(1) Any person taking a cougar with a harvest objective permit shall report to the Division, when the permanent tag is affixed pursuant to Section R657-10-16, where the cougar was killed.

(2) Failure to accurately report the correct harvest objective management unit where the cougar was killed is unlawful.

(3) Any conviction for failure to accurately report, or aiding or assisting in the failure to accurately report as required in Subsection (1) shall be considered prima facie evidence of a knowing and flagrant violation for purposes of permit revocation.

KEY: wildlife, cougar*, game laws

~~October 16, 1999~~2000

23-14-18

Notice of Continuation August 25, 1997

23-14-19

Natural Resources, Wildlife Resources

R657-11

Taking Furbearers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 23125

FILED: 08/30/2000, 16:55

RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's furbearer program.

SUMMARY OF THE RULE OR CHANGE: Provisions of this rule are being amended to clarify and make consistent application procedures for obtaining temporary possession tags for bobcats; and application procedures for trapping on state waterfowl management areas. A person may now apply for up to eight temporary possession tags. Provisions are being amended to clarify the procedures for obtaining permanent

possession tags for bobcat and marten. Marten may only be taken with an elevated, covered set in which the maximum trap size shall not exceed 1-1/2 foothold or 160 Conibear. Provisions are being amended to clarify that black-footed ferret, lynx, and wolf are protected species under the Endangered Species Act, and accidental trapping or capture of any of these species must be reported to the Division of Wildlife. Other changes are made for consistency and clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-18 and 23-14-19

ANTICIPATED COST OR SAVINGS TO:

- ❖THE STATE BUDGET: This amendment clarifies or adds existing requirements for taking furbearers. The amendments do not create a cost or savings impact to the division's budget or the state budget.
- ❖LOCAL GOVERNMENTS: None--this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the amendment. Nor are local governments indirectly impacted because the amendment does not create a situation requiring services from local governments.
- ❖OTHER PERSONS: The amendments are for clarification. The amendments do not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--the amendments clarify or add existing requirements. Therefore, there are not any additional compliance costs associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

THE FULL TEXT OF THIS RULE 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 RULE 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: John Kimball, Director

**R657. Natural Resources, Wildlife Resources.
R657-11. Taking Furbearers.**

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R657-11-3. Temporary Possession Tags for Bobcat.

(1) Any person who has purchased a furbearer license for the current year may apply for up to ~~seven~~eight temporary possession tags.

(2) Applications ~~are available October 15~~will be available on the date published in the proclamation of the Wildlife Board for taking furbearers from any division office or will be mailed upon request.

(3) Applications must be received ~~in~~through the mail no later than 5 p.m., ~~November 12~~on the date published in the proclamation of the Wildlife Board for taking furbearers. Applications completed incorrectly or received after ~~November 12~~arethe date published in the proclamation of the Wildlife Board for taking furbearers will be rejected.

(4)(a) Applicants must provide a Wildlife Habitat Authorization and furbearer license number on the application.

(b) The application must include \$5 for each tag requested. Applications must be sent to: ~~bobcat application~~Bobcat Application, P.O. Box 168888, Salt Lake City, Utah 84116-8888.

(5)(a) Temporary possession tags are valid for the entire season.

(b) Duplicate temporary possession tags are not issued.

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R657-11-5. Marten Permits.

(1) A person may not trap marten or have marten in possession without having a ~~[1996 or 1997]~~valid current year furbearer license and a marten trapping permit in possession.

(2) Marten trapping permits are available free of charge from any division office.

(3)(a) Applications for marten permits must contain the applicant's full name, mailing address, phone number, and ~~[1996 or 1997]~~valid current year furbearer license number.

(b) Permit applications are accepted by mail or in person at any regional division office.

R657-11-6. Permanent Possession Tags for Bobcat and Marten.

(1) A person may not:

(a) possess a green pelt from a bobcat or marten that does not have a permanent tag affixed after the Saturday following the close of the bobcat and marten seasons; or

(b) buy, sell, trade, or barter a green pelt from a bobcat or marten that does not have a permanent tag affixed.

(2) ~~[During the bobcat and marten seasons or no later than the Saturday after the close of the bobcat and marten seasons, bobcat]~~Bobcat and marten pelts must be delivered to a division representative to have a permanent tag affixed and to surrender the lower jaw.

(3) ~~[Pelts]~~Bobcat and marten pelts may be delivered to the following division offices, by appointment only, ~~[Monday through Friday, 8:00 a.m. to 5:00 p.m., during the bobcat and marten~~

seasons ~~November 23 through February 19~~ during the dates published in the proclamation of the Wildlife Board for taking furbearers:

- (a) Cedar City - Regional Office;
- (b) Glenwood Hatchery;
- (c) Logan Hatchery;
- (d) Ogden - Regional Office;
- (e) Price - Regional Office;
- (f) Salt Lake City - Salt Lake Office;
- (g) Springville - Regional Office; and
- (h) Vernal - Regional Office.

(4) There is no fee for permanent tags.
(5) Bobcat and marten which have been legally taken may be transported by an individual other than the fur harvester to have the permanent tag affixed; bobcats must be tagged with a temporary possession tag and accompanied by a valid furbearer license belonging to the fur harvester.

(6) Any individual transporting a bobcat or marten for another person must have written authorization stating the following:

- (a) date of kill;
- (b) location of kill;
- (c) species and sex of animal being transported;
- (d) origin and destination of such transportation;
- (e) the signature and furbearer license number of the fur harvester;

(f) the name of the individual transporting the bobcat or marten; and

(g) the fur harvester's marten permit number if marten is being transported.

~~(6)~~(7) Green pelts of bobcats and marten legally taken from outside the state may not be possessed, bought, sold, traded, or bartered in Utah unless a permanent tag has been affixed or the pelts are accompanied by a shipping permit issued by the wildlife agency of the state where the animal was taken.

~~(7)(a)~~(8)(a) Fur harvesters taking marten are requested to give the entire carcass intact and the lower jaw to the division in good condition when the pelt is presented for tagging.

(b) "Good condition" means the carcass is fresh or frozen and securely wrapped to prevent decomposition so that the tissue remains suitable for lab analysis.

R657-11-7. Purchase of License by Mail.

(1) A ~~nonresident~~person may purchase a Wildlife Habitat Authorization and license by mail by sending the following information to the Salt Lake division office: full name, complete mailing address, phone number, date of birth, weight, height, sex, color of hair and eyes, Social Security number, driver license number (if available), proof of furharvester education certification, and fees.

~~(2) Nonresidents must send either a cashier's check or money order~~(a) Personal checks, cashier's checks or money orders will be accepted.

(b) Personal checks drawn on an out-of-state account will not be accepted.

(c) Checks must be made payable to Utah Division of Wildlife Resources.

.....

R657-11-11. Accidental Trapping.

(1)(a) Any bear, ~~black-footed ferret~~, bobcat, cougar, fisher, ~~lynx~~, marten, otter, ~~wolf~~, wolverine, any furbearer trapped out of season, or other protected wildlife accidentally caught in a trap must be released unharmed.

(b) Written permission must be obtained from a division representative to remove the carcass of any of these species from a trap.

(c) The carcass remains the property of the state and must be turned over to the division.

(2) All incidents of accidental trapping of any of these animals must be reported to a division representative.

(3) Black-footed ferret, lynx and wolf are protected species under the Endangered Species Act. Accidental trapping or capture of these species must be reported to the division.

R657-11-12. Methods of Take and Shooting Hours.

(1) Furbearers, except bobcats, may be taken by any means, excluding explosives, poisons, and crossbows, or as otherwise provided in Section 23-13-17.

(2) Bobcats may be taken only by shooting, trapping, or with the aid of dogs.

(3) Marten may be taken only with an elevated, covered set in which the maximum trap size shall not exceed 1 1/2 foothold or 160 Conibear.

(4) Taking furbearers by shooting or with the aid of dogs is restricted to one-half hour before sunrise to one-half hour after sunset, except as provided in Section 23-13-17.

~~(4)~~(5) A person may not take any wildlife from an airplane or any other airborne vehicle or device or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles.

R657-11-13. Spotlighting.

(1) ~~(a) Except as provided in Subsection (3);~~Except as provided in Subsection (3):

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and[-]

(b) [The]the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is prima facie evidence of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to the use of the ~~headlight~~headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife.

(3) Spotlighting may be used to hunt coyote, red fox, striped skunk, or raccoon where allowed by a county ordinance enacted pursuant to Section 23-13-17.

(4) The ordinance shall provide that:

(a) any artificial light used to spotlight coyote, red fox, striped skunk, or raccoon must be carried by the hunter;

(b) a motor vehicle headlight or light attached to or powered by a motor vehicle may not be used to spotlight the animal; and

(c) while hunting with the use of an artificial light, the hunter may not occupy or operate any motor vehicle.

(5) For purposes of the county ordinance, "motor vehicle" shall have the meaning as defined in Section 41-6-1.

(6) The ordinance may specify:

(a) the time of day and seasons when spotlighting is permitted;

(b) areas closed or open to spotlighting within the unincorporated area of the county;

(c) safety zones within which spotlighting is prohibited;

(d) the weapons permitted; and

(e) penalties for violation of the ordinance.

(7)(a) A county may restrict the number of hunters engaging in spotlighting by requiring a permit to spotlight and issuing a limited number of permits.

(b) A fee may be charged for a spotlighting permit.

(8) A county may require hunters to notify the county sheriff of the time and place they will be engaged in spotlighting.

(9) The requirement that a county ordinance must be enacted before a person may use spotlighting to hunt coyote, red fox, striped skunk, or raccoon does not apply to:

(a) a person or his agent who is lawfully acting to protect his crops or domestic animals from predation by those animals; or

(b) an animal damage control agent acting in his official capacity under a memorandum of agreement with the division.

.....

R657-11-15. State Parks.

(1) Hunting of any wildlife is prohibited within the boundaries of all state park areas except those designated by the Division of Parks and Recreation in Section R651-~~[603-5]~~614-4.

(2) Hunting with a rifle, handgun, or muzzleloader on park areas designated open is prohibited within one mile of all park facilities including buildings, camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches.

(3) Hunting with shotguns and archery equipment is prohibited within one quarter mile of the above stated areas.

.....

R657-11-19. Wasting Wildlife.

(1) A person may not waste or permit to be wasted or spoiled any protected wildlife or their parts as provided in Section 23-20-8.

(2) The skinned carcass of a furbearer may be left in the field and does not constitute waste of wildlife.

.....

R657-11-24. Prohibited Species.

(1) A person may not take black-footed ferret, fisher, lynx, otter, wolf, or wolverine.

(2) Accidental trapping of any of these species must be reported to a division representative.

(3) Accidental trapping or capture of black-footed ferret, lynx and wolf must be reported to the division.

.....

R657-11-26. Applications for Trapping on State Waterfowl Management Areas.

(1) Applications for trapping on state waterfowl management areas are available from the ~~[Salt Lake]~~division ~~[office, regional]~~ offices, and from waterfowl management superintendents.

(2) Applications must be received in the mail no later than 5 p.m. ~~[December 6]~~on the date published in the proclamation of the Wildlife Board for taking furbearers. Applications completed incorrectly or received after ~~[December 6 are]~~the date published in the proclamation of the Wildlife Board for taking furbearers will be rejected.

(3) Application must be sent to the Wildlife Management section in the Salt Lake division office.

(4)(a) Trappers may apply for only one permit on only one management area in any 12 month period.

(b) Up to three trappers may apply as a group for a single permit.

(c) None of the group applicants may apply for any other area.

(5)(a) Only the trapper or trappers specified on the application may trap on the waterfowl management area.

(b) Violation of this section is cause for forfeiture of all trapping privileges on management areas for that trapping year.

(6) Areas open to trapping, trapping fees, and number of permits for individual areas are available at division offices or by contacting the waterfowl management area superintendents during the application period.

(7)(a) If the number of applications received exceeds the number of permits available, a drawing will be held. ~~[Drawing results will be posted at the Salt Lake division office on the third Thursday in December.]~~Applicants shall be notified by mail of drawing results.

(b) This drawing will determine successful applicants and alternates.

(8) ~~[The trapping season for muskrats is]~~Trapping dates and species that may be trapped shall be determined by the waterfowl management area superintendent.

(9) All trappers must trap under the supervision of the waterfowl management area superintendent.

.....

R657-11-30. Responsibility of Trappers.

(1) All trappers are directly responsible to the waterfowl management area superintendent.

(2) Violation of management or trapping rules, including failure to return a trapping permit within five days of cessation of trapping activities, or failure to properly trap an area, as determined and recommended by the superintendent, ~~[is]~~may be cause for cancellation of trapping privileges, existing and future, on all waterfowl management areas.

R657-11-31. Closed Area.

Davis County - Trapping is allowed only ~~[from January 1, 1997 through February 28, 1997]~~on the dates published in the proclamation of the Wildlife Board for taking furbearers, on those

lands administered by the state lying along the eastern shore of the Great Salt Lake, commonly known as the Layton-Kaysville marshes. In addition, there may be a portion of the above stated area that is closed to trapping. This area will be posted and marked.

KEY: wildlife, furbearers*, game laws, wildlife law
~~[October 21, 1996]~~2000 23-14-18
Notice of Continuation August 30, 2000 23-14-19
23-13-17



Public Safety, Peace Officer Standards and Training **R728-408** Reserve and Auxiliary Officer Standards

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 23107
FILED: 08/23/2000, 15:28
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah Code Section 77-1a-3, The Reserve and Auxiliary Officer statute was eliminated with H.B. 308 in the 1998 legislative session. Because the law was changed, there is no need for this rule.

(DAR Note: H.B. 308 is found at 1998 Utah Laws 282, and was effective May 4, 1998.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-1a-3 and 53-6-105

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Provisions regarding auxiliary and reserve officers are found elsewhere in state law; this descriptive rule is outdated, and its repeal will have no cost or savings impact.

❖LOCAL GOVERNMENTS: Provisions regarding auxiliary and reserve officers are found elsewhere in state law; this descriptive rule is outdated, and its repeal will have no cost or savings impact.

❖OTHER PERSONS: Provisions regarding auxiliary and reserve officers are found elsewhere in state law; this descriptive rule is outdated, and its repeal will have no cost or savings impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Provisions regarding auxiliary and reserve officers are found elsewhere in state law; this descriptive rule is outdated, and its repeal will have no cost or savings impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on businesses.

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

Public Safety
Peace Officer Standards and Training
4525 South 2700 West
PO Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Steve DeMille or Bonnie Braegger at the above address, by phone at (801) 965-4370 or (801) 965-4099, by FAX at (801) 965-4619, or by Internet E-mail at sdemille@dps.state.ut.us or bbraegge@dps.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Steven D. DeMille, Deputy Director

R728. Public Safety, Peace Officer Standards and Training.

~~[R728-408. Reserve and Auxiliary Officer Standards:~~

~~R728-408-1. Authority:~~

~~— This rule is authorized by 53-6-105.~~

~~R728-408-2. Level I - Reserve and Auxiliary Officer Standards:~~

~~— A. Has the level of training required of a peace officer under 77-1a-1.~~

~~— B. Works without immediate supervision and makes independent decisions as does a peace officer described in 77-1a-1.~~

~~— C. Receives 40 hours of in-service training per year.~~

~~R728-408-3. Level II - Reserve and Auxiliary Officer Standards:~~

~~— A. Has the level of training required of a reserve/auxiliary officer described in 77-1a-3.~~

~~— B. Works under the direction of a certified peace officer as described in 77-1a-1; however, this may allow for temporary separations.~~

~~— C. Receives 40 hours of in-service training per year.~~

~~— D. Is limited to the role of a back-up officer to a certified peace officer as described in 77-1a-1.~~

~~KEY: law enforcement officers, reserve officers, auxiliary officers*~~

~~1994 _____ 77-1a-3
Notice of Continuation March 4, 1998]~~



Public Safety, Peace Officer Standards and Training
R728-409

Refusal, Suspension, or Revocation of Peace Officer Certification

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 23102
FILED: 08/16/2000, 11:21
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Give agency more flexibility in considering aggravating and mitigating circumstances.

SUMMARY OF THE RULE OR CHANGE: Change mandatory language to allow flexibility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-6-211

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: This change has nothing to do with cost or savings at any level of government. It simply allows POST more flexibility to deal with officers that lie under the Garrity Warning during an official investigation for cause.
LOCAL GOVERNMENTS: This change has nothing to do with cost or savings at any level of government. It simply allows POST more flexibility to deal with officers that lie under the Garrity Warning during an official investigation for cause.
OTHER PERSONS: This change has nothing to do with cost or savings for any other persons affected by this rule. It simply allows POST more flexibility to deal with officers that lie under the Garrity Warning during an official investigation for cause.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change has nothing to do with cost or savings for any other persons affected by this rule. It simply allows POST more flexibility to deal with officers that lie under the Garrity Warning during an official investigation for cause.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will have no fiscal impact on businesses.

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

Public Safety
Peace Officer Standards and Training
4525 South 2700 West
PO Box 141775
Salt Lake City, UT 84114-1775, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve DeMille or Bonnie Braegger at the above address, by phone at (801) 965-4370 or (801) 965-4099, by FAX at (801) 965-4619, or by Internet E-mail at sdemille@dps.state.ut.us or bbraegge@dps.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 11/17/2000

AUTHORIZED BY: Steven D. DeMille, Deputy Director

R728. Public Safety, Peace Officer Standards and Training.
R728-409. Refusal, Suspension, or Revocation of Peace Officer Certification.

.....

R728-409-5. Investigative Procedure.

A. All investigations initiated shall be commenced upon the reasonable belief that cause exists for the refusal, suspension or revocation of peace officer, correctional officer, reserve/auxiliary officer or special function officer certification as indicated in section 409-3 above.

B. The initiation of an investigation may occur upon any of the following circumstances:

- 1. A peace officer who has been charged with a criminal violation of law;
2. A peace officer who has committed conduct which is a criminal act under law, but which has not been criminally charged and/or where criminal prosecution is not anticipated;
3. A peace officer who has committed conduct in violation of section 409-3 above, where the department has conducted disciplinary action and notification of the conduct has been made to the division by the peace officer's department;
4. A department which has terminated a peace officer from employment for conduct which is in violation of section 409-3 above;
5. A department which has agreed to allow a peace officer to resign, rather than terminate the employment, for conduct which is in violation of section 409-3 above;
6. A complaint from a citizen which, on its face, appears to be a violation of section 409-3 above;
7. Media attention, confirmed by the employing agency, reporting peace officer misconduct which appears to be in violation of section 409-3 above;
8. Information from a peace officer, concerning another peace officer or law enforcement department, alleging improper, unethical, or unlawful conduct in violation of section 409-3 above;
9. Information against a peace officer received from any law enforcement agency, criminal justice related agency, or political subdivision alleging improper, unethical, or unlawful conduct in violation of section 409-3 above;
10. Administrative procedures instituted by the division to uncover or reveal past criminal conduct or the character of an individual requesting peace officer certification, or entrance into a

certified peace officer training program which upon completion would create eligibility for peace officer certification; and/or

11. The peace officer may be directed to respond to questions pursuant to a "Garrity Warning." Refusal to respond to questions after being warned, or the failure to respond truthfully, may result in a suspension up to two years depending on aggravating and mitigating circumstances.~~[will result in an automatic suspension for a minimum of one year and may be suspended longer than one year for aggravating circumstances.]~~

C. All citizens complaining about peace officers will be requested to sign a written statement detailing the incident, swear to the accuracy of the statement, be advised that complaints found to be malicious in nature may be prosecuted under Section 76-8-511, Falsification of Government Record, and may require that the citizen submit to a polygraph examination concerning the truth and veracity of the complaint.

D. Non-criminal complaints or information about a peace officer initiated by another peace officer will be submitted in writing detailing the incident or offer the division a tape recorded statement detailing the incident.

E. A staff member will be assigned to investigate the complaint or information and to make a recommendation to proceed or to discontinue action in the matter.

1. If a peace officer under investigation is employed by a law enforcement agency, POST shall notify the peace officer's employing agency concerning the complaint or information.

2. POST will refer any complaints made by officers or citizens of a criminal nature to the appropriate agency having jurisdiction.

3. Criminal complaints will be handled by the agency having jurisdiction.

4. POST will wait until the case has been investigated by the responsible agency and the adjudicative process has been completed before taking action.

5. POST will use the investigation and the adjudicative findings to help determine its action with regard to an individual's certification. POST will do its own investigation whenever it feels the necessity to do so.

6. POST will take action based on the actual conduct of the individual as determined by an investigative process, not necessarily on the punishment or finding of the court.

7. POST's primary concern is conduct that disrupts, diminishes or otherwise jeopardizes public trust and fidelity in law enforcement.

8. Complaints that are not criminal will be investigated by the agency having jurisdiction. If the employing agency chooses not to investigate, a POST staff investigator may be assigned to conduct the investigation.

9. Witnesses and other evidence may be subpoenaed for the investigation pursuant to Section 53-6-210.

10. If ordinary investigative procedures cannot resolve the facts at issue, the peace officer may be requested to submit to a polygraph examination. Refusal to do so could result in the immediate suspension of peace officer certification until such time as an administrative proceeding can be established or other factual information has been received which no longer requires the need for the polygraph examination.

11. If an officer is found to have lied under the Garrity warning, his certification may result in a suspension up to two years depending on aggravating and mitigating circumstances.~~[will~~

~~automatically be suspended for a minimum of one year and may be suspended longer than one year for aggravating circumstances.]~~

F. Subsection (E) will be the method preferred for the investigation of alleged violations of Title 53, Chapter 6, unless special investigative procedures are determined to be more beneficial to the investigative process by the director and the council as per R728-409-7.

G. If the alleged conduct constitutes a public offense for which the individual involved has not been previously convicted, the division shall immediately notify the appropriate prosecutorial authority. If the conduct would also, if proven, constitute grounds for suspension or decertification under Section 53-6-211(1), the director in his discretion may immediately suspend the certification of the individual as provided in Section 63-46b-20 and Rule R728-409-25.

H. If immediate suspension of a peace officer's certification is believed necessary to ensure the safety and welfare of the public, or for insuring the continued public trust or professionalism of law enforcement, the director shall immediately establish the procedures for investigation and adjudicative proceedings in order to fulfill the due process rights of the peace officer.

I. Whenever an investigation is initiated the officer(s) who is under investigation and his department will be notified as soon as reasonably possible, except in cases where the nature of the complaint would make such a course of action impractical. The date and time the department administrator and the officer are notified should be noted in the appropriate space on the complaint form.

J. In all cases, where possible, the investigation shall be conducted with the full knowledge and assistance of the department administrator or the administrator of the employing political subdivision.

K. If during the course of an investigation it appears that criminal action may be involved the information is to be turned over to appropriate local authorities for disposition. It is not the position of the division to be involved in investigating criminal cases against officers. If criminal charges are pending against an officer the division may wait until the case is adjudicated before deciding if any further action is warranted by the division (subject to subsection (5)(J) above).

L. Assigned investigators are to ensure that all investigative procedures are properly documented and recorded in the case file.

M. Final disposition of a case (i.e., close case, refer to department for follow-up action, refer for adjudicative proceeding, etc.) will be made by the deputy director with the approval of the director.

R728-409-6. Special Investigative Proceedings - Procedures.

A. The Director with the concurrence of the Council on Peace Officer Standards and Training, may initiate special investigative proceedings.

B. The purpose of the special investigative proceeding is to hear testimony and other evidence regarding violations of Chapter 6, Title 53.

C. Special investigative proceedings will be presided over by a panel of the Council on Peace Officer Standards and Training consisting of at least three Council members and any persons designated by the Council Chairman and Director of the division.

D. Direct examination of witnesses will be conducted by members of the panel.

E. The division and presiding officer may subpoena witnesses and other evidence for special investigative proceedings, as per Sections 53-6-210 and 63-46b-7(2).

F. The special investigative proceeding will be a proceeding of record by the use of tape recording and/or court reporter.

G. If an officer is found to have lied under the Garrity warning, his certification may result in a suspension up to two years depending on aggravating and mitigating circumstances.~~[will be automatically suspended for a minimum of one year and may be suspended longer than one year for aggravating circumstances.]~~

KEY: law enforcement officers, certification, investigations, rules and procedures
~~[June 2, 1998]~~October 17, 2000 53-6-211
Notice of Continuation October 6, 1997



Tax Commission, Auditing
R865-20T-11
Reporting of Imported Cigarettes
Pursuant to Utah Code Ann. Section
59-14-212

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 23130
FILED: 08/31/2000, 15:20
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-14-212 requires the Tax Commission to establish rules indicating how the information required on cigarettes imported to the United States shall be provided to the Tax Commission.

SUMMARY OF THE RULE OR CHANGE: The proposed rule indicates how a cigarette importer shall provide the Tax Commission the importer's federal import permit, and the customs form showing the tax information required by federal law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-14-212

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Any costs should have been considered in the fiscal note for 2000 Senate Bill 218.

❖LOCAL GOVERNMENTS: Any costs should have been considered in the fiscal note for 2000 Senate Bill 218.

❖OTHER PERSONS: Any costs should have been considered in the fiscal note for 2000 Senate Bill 218. (**DAR Note:** S.B. 218 is found at 2000 Utah Laws 190, and was effective July 1, 2000.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed rule will not have any impact on compliance costs unless the importer of cigarettes is required to provide copies of information, pursuant to statute, to the Tax Commission.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact on businesses. This rule describes procedures for submitting documentation required by SB 218 to the Tax Commission.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
Tax Commission
Auditing
Tax Commission Building
210 North 1950 West
Salt Lake City, UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Pam Hendrickson at the above address, by phone at (801) 297-3900, by FAX at (801) 297-3919, or by Internet E-mail at phendric@tax.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: Pam Hendrickson, Commissioner

R865. Tax Commission, Auditing.
R865-20T. Tobacco Tax.
R865-20T-11. Reporting of Imported Cigarettes Pursuant to Utah Code Ann. Section 59-14-212.

A. A manufacturer, distributor, wholesaler, or retail dealer required by Section 59-14-212 to provide the Tax Commission, on a quarterly basis, a copy of the importer's federal import permit and the customs form showing the tax information required by federal law:

- 1. is not required to enclose that information with the quarterly report;
- 2. shall retain that information in its records; and
- 3. at the request of the Tax Commission, provide copies of that information to the Tax Commission.

KEY: taxation, tobacco products
~~[October 14, 1998]~~2000 59-14-212
Notice of Continuation May 22, 1997



NOTICES OF CHANGES IN PROPOSED RULES

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 October 16, 2000. At its option, the agency may hold public hearings.

From the end of the waiting period through January 13, 2001, 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.

The Changes in Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-16a
Optometry Practice Act Rules

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE No.: 22924
FILED: 08/29/2000, 08:33
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of a rule hearing that was held with respect to the Optometry Practice Act Rules on July 12, 2000, a couple of additional changes needed to be made.

SUMMARY OF THE RULE OR CHANGE: In Section R156-16a-304 regarding continuing education, the following two changes were made. In paragraph (1), deleted the American Optometric Association as they do not approve continuing education courses. Added paragraph (6) to waive the continuing education requirement for licensees who are sick or out of the country and are therefore prevented from complying with the continuing education requirement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-16a-101, and Subsections 58-1-106(1) and 58-1-202(1)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The division will incur minimal costs to reprint the rules once they become effective. Any costs will be absorbed in the division's current budget.

❖LOCAL GOVERNMENTS: Proposed rules do not apply to local governments; therefore, no cost or savings.

❖OTHER PERSONS: There may be an undeterminable savings to licensed optometrists who would otherwise be required to complete the continuing professional education requirements when they are sick or out of the country. However, the Division does not now how many licensees may fall within this provision.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division only anticipates an undeterminable savings to licensed optometrists who would otherwise be required to complete the continuing professional education requirements when they are sick or out of the country.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this proposed amendment is to delete an erroneous reference to an organization not offering continuing education, and to further provide relief from continuing education requirements for certain licensees who are prevented from compliance by

reason of health or being out of the country for extended periods upon written request of the licensee made to and approved by the Division of Occupational and Professional Licensing. Adoption of this amendment will not impact the state budget or local governments. There will be an obvious savings to practitioners receiving relief from part or all of the continuing education requirement, but it is impossible for the division to even guess at how many licensees might be affected and to what extent--Douglas C. Borba

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 RULE TO:

David Fairhurst at the above address, by phone at (801) 530-6221, 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 RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 P.M. ON 10/16/2000.

THIS RULE MAY BECOME EFFECTIVE ON: 10/17/2000

AUTHORIZED BY: A. Gary Bowen, Director

R156. Commerce, Occupational and Professional Licensing.
R156-16a. Optometry Practice Act Rules.
R156-16a-304. Continuing Education.

In accordance with Section 58-16a-304, the standards for the 30 hours of qualified continuing professional education are the following.

(1) With the exception of Subsection (2), only courses approved by the Council on Optometric Professional Education (COPE) and optometry related courses approved by the Council on Medical Education [~~and the American Optometric Association~~] will be accepted.

(2) A maximum of two hours of continuing professional education will be accepted for courses in certification or recertification in cardiopulmonary resuscitation (CPR) or Basic Life Support (BCLS).

(3) Qualified continuing professional education hours for licensees who have not been licensed for the entire two year renewal cycle will be prorated from the date of licensure.

(4) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after close of the two year renewal cycle to which the records pertain.

(5) Hours in excess of the 30 hours obtained in one renewal cycle cannot be transferred to the next renewal cycle.

(6) A licensee who has a serious health problem or who has left the United States for an extended period of time which may prevent the licensee from being able to comply with the professional education requirements established under this section may be excused from completing some or all of the requirements established under this section by submitting a written request to the Division and receiving Division approval.

KEY: optometrists, licensing

2000

58-16a-101

Notice of Continuation September 2, 1997

58-1-106(1)

58-1-202(1)



End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

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.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-63** Medicaid Policy for Pharmacy Reimbursement

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 23129
FILED: 08/31/2000, 15:15
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This is a new rule. The purpose of the rule is to establish Medicaid pharmacy reimbursement criteria.

SUMMARY OF THE RULE OR CHANGE: The Medicaid Pharmacy Program reimbursement criteria will be established by rule. The current dispensing fee will be reduced by \$0.30 for both rural and urban pharmacy providers effective September 15, 2000, to keep reimbursement within Legislative appropriations. The current payment of Average Wholesale Price minus 12% will remain the same.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5, and Title 26, Chapter 18

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Department should realize a savings of approximately \$700,000 annually.

❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government, so there is no budget impact.

❖ **OTHER PERSONS:** Pharmacy providers will see a reduction in reimbursement of about \$700,000 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Pharmacy providers will see a \$0.30 decrease in reimbursement for each prescription filled for a Medicaid recipient.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department has a \$2,400,000 shortfall in funding to maintain the current level of pharmacy reimbursement. The Department originally proposed to alter pharmacy reimbursement by adjusting the payment based on the Average Wholesale Price (AWP). Currently pharmacists receive AWP minus 12%. To realize the necessary savings this would have been adjusted to AWP minus 15%. Negotiations with the pharmacy industry identified other savings that should reduce the shortfall to \$700,000. Rather than making the cut by adjusting the payment to AWP minus 13%, those in the negotiations felt that a \$0.30 reduction in the dispensing fee was preferable. These issues will be carefully evaluated after the public comment period. A commitment was made to the pharmacy representatives that the \$0.30 dispensing fee reduction would be restored if they identified other cost saving initiatives that would produce comparable savings--Rod L. Betit

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

Pharmacists receive a dispensing fee and a payment based on a discount from the Average Wholesale Price (AWP). Through negotiations with representatives of the

pharmacy industry, it was agreed that a decrease in the dispensing fee was preferable to an increase in the discount taken from the AWP. A reduction in the dispensing fee is necessary to offset the rapid escalation of drug prices in the pharmacy program.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
RaeDell Ashley at the above address, by phone at (801) 538-6495, by FAX at (801) 538-6099, or by Internet E-mail at rashley@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 09/15/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R414-63. Medicaid Policy for Pharmacy Reimbursement.

R414-63-1. Introduction and Authority.

(1) The Medicaid Policy for reimbursement of dispensing fees for pharmacy providers was achieved through negotiations with representatives of the pharmacy industry.

(2) This rule is authorized under Title 26, Chapter 18.

R414-63-2. Pharmacy Reimbursement.

For each prescription filled for a Medicaid recipient the pharmacy provider shall receive:

(1) the average wholesale price for the medication minus 12%;
and

(2) a dispensing fee in the amount of \$3.60 for urban providers and \$4.10 for rural providers. This amount reflects a reduction of thirty cents for both urban and rural providers when this rule takes effect.

R414-63-3. Periodic Evaluation of Reimbursement.

(1) This decrease to the dispensing fee may be adjusted if other areas can be identified in the pharmacy program where significant cost saving measures can be implemented.

(2) The Department shall periodically evaluate reimbursement to pharmacy providers and make adjustments to reimbursement as appropriate.

KEY: medicaid
September 15, 2000

26-18

◆ ————— ◆

**Health, Health Care Financing,
Coverage and Reimbursement Policy**
R414-309
**Utah Medical Assistance Program
(UMAP)**

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 23111
FILED: 08/25/2000, 10:13
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The funding for the Utah Medical Assistance Program (UMAP) is inadequate to sustain it at its current level. The intent of the rule is to reduce the number of eligible individuals.

SUMMARY OF THE RULE OR CHANGE: The requirements for individuals to gain UMAP eligibility are tightened and made more restrictive, thereby reducing the number of individuals that qualify for eligibility.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-10

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Anticipated aggregate cost savings for the Department is \$213,400.

❖LOCAL GOVERNMENTS: The rule does not apply to local government, so there is no budget impact.

❖OTHER PERSONS: There will be a reduction of the number of eligible individuals as a result of restrictions in the gaining of eligibility. Because of fewer eligibles, providers will notice fewer individuals that can be provided services. Advocates probably will oppose this rule, but do not sustain any budget impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs are as described in "Other Persons" above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department has worked closely with advocacy groups and providers to minimize the cuts imposed by this rule. The Utah Medical Assistance Program must operate within the appropriation authorized by the Utah Legislature. The changes in program benefits and eligibility imposed by this rule are necessary and unavoidable--Rod L. Betit

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

UMAP cannot continue to function at its current budget without a significant reduction in the number of eligibles.

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

Health
Health Care Financing,
Coverage and Reimbursement Policy
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Connie Christensen at the above address, by phone at (801) 538-9349, by FAX at (801) 538-6952, or by Internet E-mail at cchriste@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 09/01/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

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

R414-309. Utah Medical Assistance Program (UMAP).

R414-309-[90]1. UMAP General Eligibility Requirements.

(1[-]) The ~~[d]~~Department ~~[requires compliance]~~complies with Section 26-18-10. The ~~[d]~~Department adopts ~~[Pub. L. No. 104-193 (412), (431), and (435), which is incorporated by reference as amended by]~~Pub. L. No. 105-33(5302)(c)(2) and (3), (5306)(d), (5307)(a), (5563), (5566), and (5571), which is incorporated by reference.~~[The department adopts Pub. L. No. 105-33 (5307)(a); and (5566).]~~

(2[-]) The definitions in R414-1 and R414-301 apply to this rule. In addition, [F]the following definitions apply to this section:

(a[-]) "Unearned income" means cash received by an individual for which the individual performs no service.

(b[-]) "Full-time" employment means an average of 100 or more hours of work per month or an average of 23 hours per week.

(c[-]) A "bona fide" loan means a loan ~~[which]~~that has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

(d[-]) "Disregard" means a portion of income that is not counted.

(e) "Full-time student" means a person who is enrolled in any educational program, other than high school, and is attending full time as defined by that educational program.

(3[-]) Conditions of eligibility for UMAP:

(a[-]) Medical need is not a requirement for UMAP eligibility.

(b[-]) An individual ineligible for Medicaid because of resources is not eligible for UMAP assistance.

(c[-]) Individuals ineligible for Medicaid because they will not spenddown or because their medical expense is less than the spenddown, are not eligible for UMAP assistance.

(d) An individual who is a full-time student is not eligible for UMAP assistance. The spouse of a full-time student is not eligible for UMAP assistance if the full-time student and his or her spouse are living together or are not legally separated and have been separated for less than six months.

(4[-]) Citizenship requirements for UMAP:

[a-]Temporary entrants into the U.S. and those who have no registration card are not eligible for UMAP assistance. To be eligible for UMAP, the individual must be one of the following:

[r-](a) U.S. born or a naturalized citizen;

[ir-](b) An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply, or who is a member of an Indian tribe as defined in section 4(e) of the Indian Self-determination and Education Assistance Act;

[iii-](c) Residents from Freely Associated States;

[iv-](d) A qualified alien, as defined in Pub. L. No. 104-193 (431), as amended by Pub. L. No. 105-33(5302)(c)(3), (5562), and (5571) who was admitted into the United States prior to August 22, 1996.

[v-](e) A qualified alien, newly admitted into the United States on or after August 22, 1996, is not eligible for UMAP services for five years from the person's date of entry into the United States, unless the person is:

[A-](i) A refugee admitted under section 207 of the Immigration and Nationality Act;

[B-](ii) An individual granted asylum under section 208 of the Immigration and Nationality Act;

[C-](iii) An individual whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act, (as in effect immediately before the effective date of section 307 of division C of Pub. L. No. 104-208) or section 241(b)(3) of such Act (as amended by section 305(a) of division C of Pub. L. No. 104-208);

[D-](iv) A Cuban and Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

[E-](v) An Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, [m] 1989, Pub. L. No. 100-461, as amended);

[F-](vi) An honorably discharged veteran from the Armed Forces of the United States, the spouse of a United States veteran, or the unremarried spouse of a deceased United States veteran;

[G-](vii) An individual on active duty in the Armed Forces of the United States or the spouse of such an individual;

[H-](viii) A Hmong or Highland Lao veteran who fought on behalf of the Armed Forces of the United States during the Vietnam conflict who has been lawfully admitted to the United States for permanent residence is considered a veteran for the purpose of determining eligibility.

(5[-]) Residence requirements for UMAP:

[a-]To be eligible for UMAP assistance, an individual must be a Utah resident. To be considered a Utah resident, a person must meet one of the following guidelines:

~~(i)(a)~~ The client must live in Utah for 30 days prior to the need for medical services.

~~(ii)(b)~~ The client must show intent to reside in the state permanently. If a client shows intent to reside in the State permanently, eligibility can begin no earlier than the date the client entered the state.

~~(c)~~ Any person who is a resident of a prison, jail or halfway house is not eligible for UMAP assistance. A person may qualify in the month in which he enters or leaves a prison, jail or halfway house. The program will not pay for services while the person is in custody. It does not matter if the condition was pre-existing. No payment will be made for any medical problems which arise during the commission of a crime or during an arrest.

~~(6)~~ All recipients of General Financial Assistance (GA) are eligible for UMAP assistance.

~~(7)~~ The Department shall determine ~~(F)~~income eligibility calculation for UMAP as follows:

~~(a)~~ Eligibility for UMAP is based on a best estimate of income as follows:

~~i.~~ The department shall budget income and determine the best estimate in the same manner as Medicaid in R414-304-407.~~(a)~~ At application, the Department shall total the actual countable income received in the 12 months prior to the application month, divide the total by 12 to arrive at a monthly average and compare the monthly average to the UMAP BMS for the household size.

~~(b)~~ Persons whose averaged monthly countable income as determined in R414-309-1(7)(a) exceeds the UMAP BMS are not eligible for UMAP assistance.

~~(c)~~ If the averaged monthly countable income as determined in R414-309-1(7)(a) does not exceed the UMAP BMS, the Department shall budget income and determine the best estimate for the application month and any ongoing month in the same manner as described in R414-304-7.

~~(d)~~ The Department shall compare the countable income as determined by R414-309-1(7)(c) to the UMAP BMS for the household size. Persons with countable income in the application month or any ongoing month that exceeds the UMAP BMS are not eligible for UMAP assistance for that month.

~~(e)~~ In determining the countable income for the 12 months prior to the application month, the application month, and ongoing months, the Department shall count all income received except:

~~(ii)~~ The department shall count all income received except:

~~(i)~~ a bona fide loan of money which must be repaid;
~~(ii)~~ rental subsidies;
~~(iii)~~ trust funds that are not available on demand;
~~(iv)~~ GA, AFDC, or Refugee Cash Assistance (RCA) grants;

~~(v)~~ HEAT assistance;

~~(vi)~~ attendant care received by a handicapped person from the Division of Services to the Handicapped if the money is used to pay for attendant care, and the person providing the care is not included in the household's basic maintenance standard (BMS);

~~(vii)~~ insurance settlements for destroyed property, if the income is actually used to replace the property. If the insurance settlement is more than the replacement cost of the new property, the difference is counted as income.

~~(viii)~~ unearned income in-kind.

~~(ix)~~ special payments to American Indians.

~~(c)~~ The following deductions are allowed:

~~(i)~~ payments for a health or accident insurance policy;

~~(ii)~~ federal taxes are determined by multiplying the number of exemptions by \$162.50, subtracting that amount from the wages, and comparing the remainder to the appropriate tax tables for a single or married person. Tax computation is as follows:

TABLE

Single Person Including Head of Household.		Income Tax	
Wages			
<\$ 89		\$ 0	
89 - \$1,575		0	plus 15% of Excess Over \$ 89
1,576 - 3,683	223.13		plus 28% of Excess Over 1,576
3,684 - 8,461	831.46		plus 33% of Excess Over 3,684
8,462 +	2,390.03		plus 28% of Excess Over 8,462

Married Person Including Head of Household.		Income Tax	
Wages			
<\$ 255		\$ 0	
255 - \$ 2,733		0	plus 15% of Excess Over \$ 255
2,734 - 6,246	371.88		plus 28% of Excess Over 2,734
6,247 - 15,422	1,355.38		plus 33% of Excess Over 6,247
15,423 +	4,383.40		plus 28% of Excess Over 15,423

~~(iii)~~ state taxes, as determined by multiplying the federal tax by .45;

~~(F)~~ FICA. If the client is self-employed, this is determined by multiplying monthly earnings by .1503. If the client is not self-employed, this is determined by multiplying monthly earnings by .0765.

~~(iii)~~ Compare the figure derived from the above calculation to the BMS for the household size. This figure is called countable income. Persons with countable income above the BMS may spenddown to the BMS level, if the spenddown amount is \$50.00 or less. The Department will not collect a spenddown for amounts of less than \$1.00.

~~(c)~~ The UMAP income standard is as follows:

TABLE

Household Size	UMAP Income Standard (BMS)
1	337
2	413
3	516
4	602
5	686
6	756
7	792
8	829
9	868
10	904
11	941
12	978
13	1016
14	1053
15	1090
16	1128

~~(8)~~ When an individual's check amount differs from the entitlement amount, the check amount is used to determine income eligibility only if the reduction is involuntary.

~~(9)~~ Self-employment income:

~~(a)~~ Income from self-employment is counted. Deductions are allowed for the cost of doing business. Allowable deductions include:

[i-](a) labor;
 [ii-](b) stock;
 [iii-](c) raw materials;
 [iv-](d) seed and fertilizer;
 [v-](e) taxes and interest paid for income-producing property;
 [vi-](f) insurance premiums;
 [vii-](g) transportation costs only if the person must move from place to place in the course of business.

[b-](10) Deductions for income-producing property include:

[i-](a) property taxes;
 [ii-](b) insurance;
 [iii-](c) incidental repairs;
 [iv-](d) advertising;
 [v-](e) landscaping;
 [vi-](f) utilities.

[c-](11) The cost of an addition or increase in value of the rental property is not allowed as a deduction.

[d-](12) UMAP budgeting methods:

[a-](1) Income shall be budgeted prospectively. Information provided by the client is used to determine the amount of income the client expects to receive during the eligibility period.

[b-](2) Farm and self-employment income is prorated over the number of months in which the money was earned if the income is received less often than monthly. The prorated amount is counted for the same number of months in which the money was earned. The month in which the money was received is counted as the first month, even if the money is not actually earned in that month.

[c-](3) Student grants and scholarships are prorated over the number of months the grants or scholarships are intended to cover. The first month it is intended to cover is the first budget month. If it is received after the first month it is intended to cover, the client is not liable for an understated liability based on receipt of this income.

[d-](4) Deferred income counts when it is available if it is not deferred by choice. If it is deferred by choice, it is counted for the months it could have been received.

[e-](5) Only student income and farm or self-employment income are prorated.

[f-](6) Lump sum payments can be earned or unearned income. Lump sums are income in the month received. An overpayment may exist for the month of receipt. Any amount remaining will count as a resource for the month following the month of receipt.

[g-](13) ~~[Retroactive]UMAP coverage begins the date a completed, signed application is received by the Department. There is no provision for retroactive UMAP coverage. [no earlier than the first day of the month prior to the month of application. Coverage begins no later than the first day of the month in which an individual is determined eligible.]~~

[h-](14) The income of all individuals included in the BMS is used to determine eligibility.

[i-](15) Individuals included in the UMAP BMS:

[a-](1) A legally married spouse is included in the BMS if the couple lives together or they have not been separated more than six months. The spouse is not included if the couple is legally separated.

[b-](2) An unmarried person of the opposite sex who lives with the client is included in the BMS if the client is emancipated and the couple present themselves to the community as husband and wife.

[c-](3) Unemancipated children living with the client are included in the BMS if the client is emancipated. This includes natural, adopted, or stepchildren. Unborn children are not included in the BMS.

[d-](4) Parents living with the client are included in the BMS if the client is unemancipated. This includes natural, adopted or stepparents.

[e-](5) Unemancipated children of the client's parents are included in the BMS if they live with the parents and the client is unemancipated.

[f-](16) The client must report any change which may affect eligibility within ten days of the day the client learns of the change. Clients must report income from a new source within ten calendar days of the date the client receives money from that new source.

[g-](17) UMAP resource requirements:

[a-](1) The resource limit is \$500 for a BMS of one and \$750 for a BMS of two or more.

[b-](2) Countable resources include anything of value that is available to the person. When a person is part owner of property, the property is a resource only if the person has a legal right to sell the property. Only the equity value of the resource is counted.

[c-](3) If the resource limit is met at any time in the month, it is met for the entire month.

[d-](4) The following resources are exempt and are not counted to determine eligibility:

[i-](1) one home, including a mobile home;

[ii-](2) the lot upon which the home stands if the home is occupied by the client. If the lot on which the home stands exceeds the average size of residential lots in the community where it is, the equity value of the property that is larger than an average size lot is a resource;

[iii-](3) water rights attached to the home or lot occupied by the client;

[iv-](4) Contents of the home worth less than \$1000 that are essential to daily living;

[v-](5) one vehicle;

[vi-](6) an irrevocable burial trust;

[vii-](7) one burial plot or space for any member of the client's immediate family;

[viii-](8) funds from a student loan, grant, or scholarship are exempt until the month following the end of the period the loan, grant, or scholarship is intended to cover;

[ix-](9) a life estate which serves as the primary residence of the client;

[x-](10) Lump sum insurance payments for destroyed property if the available money is used within ninety days to replace the destroyed property. All other lump sums are a resource in the month following the month of receipt.

[xi-](11) The resources of everyone in the BMS are counted to determine eligibility.

[xii-](12) Individuals are not sanctioned for transferring resources unless the transfer was made to become eligible for UMAP. If property is transferred in order to meet resource limitations, the person is ineligible for the month the transfer is made, and for the next five months. If the client regains the transferred resource and uses the resource to meet normal expenses, the sanction will be removed.

[xiii-](18) The UMAP clinic in Utah, Weber, Morgan, and Salt Lake Counties shall determine what services they will cover. The

worker in all other counties shall determine what services they will cover.

[+7-]19) Cooperation in collecting third party liability information is an eligibility requirement for UMAP assistance.

KEY: UMAP
September 1, 2000 **26-18**
Notice of Continuation February 6, 1998



Health, Health Care Financing, Medical Assistance Program
R420-1
Utah Medical Assistance Program

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 23112
FILED: 08/25/2000, 10:13
RECEIVED BY: NL

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The funding for the Utah Medical Assistance Program (UMAP) is inadequate to sustain it at its current level. The intent of the rule is to reduce the services, and the cost of services paid for by UMAP for eligible individuals.

SUMMARY OF THE RULE OR CHANGE: In order to save costs for UMAP, there will be reductions in the amounts paid to providers, certain co-payments assigned to eligible individuals, and elimination of certain benefits formerly paid by UMAP.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-10

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** Anticipated aggregate cost savings for the Department is \$656,000.
 - ❖ **LOCAL GOVERNMENTS:** The rule does not apply to local government, so there is no budget impact.
 - ❖ **OTHER PERSONS:** Eligibles and providers will sustain a reduction in benefits. Eligibles will be faced with certain copayments as well as the elimination of some benefits formerly covered. Providers will sustain a reduction of reimbursement amounts. Advocates probably will oppose this rule, but do not sustain any budget impact.
- COMPLIANCE COSTS FOR AFFECTED PERSONS:** Compliance costs are as described in "other persons" above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department has worked closely with advocacy groups and providers to minimize the cuts imposed by this rule. The Utah Medical Assistance Program must operate within the appropriation authorized by the Utah Legislature. The changes in program

benefits and eligibility imposed by this rule are necessary and unavoidable--Rod L. Betit

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements.

UMAP cannot continue to function at its current budget without significant reductions in services and payments.

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

Health
Health Care Financing,
Medical Assistance Program
Cannon Health Building
288 North 1460 West
PO Box 143102
Salt Lake City, UT 84114-3102, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Robert Knudson at the above address, by phone at (801) 538-6416, by FAX at (801) 538-6952, or by Internet E-mail at rknudson@email.state.ut.us.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE.

THIS RULE IS EFFECTIVE ON: 09/01/2000

AUTHORIZED BY: Rod L. Betit, Executive Director

R420. Health, Health Care Financing, Medical Assistance Program.
R420-1. Utah Medical Assistance Program.

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R420-1-2. Definitions.

Terms used in this rule are defined in R414-1[+], except that "client" shall have the meaning defined below. In addition:

- (1) "Chronic condition" means a condition characterized by its long duration or recurrence.
- (2) "Client" means a person who has completed a current form MI-13 and been approved for UMAP eligibility.
- (3) "Crime" means any felony, misdemeanor, or infraction, of which an individual is eventually convicted[-]. Crimes also include those to which an individual pleads guilty or no contest, or those to which an individual enters into a diversion agreement as outlined in sections 77-2-5 through 77-2-9 UCA.
- (4) "Emergency service" means a medical service performed to treat a condition ~~for which~~ that, in the absence of immediate medical attention, could reasonably be expected to result in death or permanent disability to the client. Immediate medical attention is treatment given within 24 hours of the onset of symptoms or within 24 hours of diagnosis.
- (5) "Emergency transportation" means an air or ground ambulance required to transport a client in need of an emergency

service. UMAP shall not reimburse for emergency transportation services if [This does not include any transportation in which] a client could have been safely transported by a less costly [any other] method of transportation.

(6) "In custody" means being detained or held under guard by law enforcement personnel at the scene of a crime or in a detention facility, until unconditionally released, or released on probation or parole. The [d]Department shall consider a resident of a jail, correctional facility, or half-way house to be in custody.

(7) "Life threatening condition" means a medical condition which, if not immediately treated, poses an imminent danger to life or will result in permanent disability. Disability is the limiting loss or absence of the capacity to perform activities of daily living or occupational demands. Permanent disability occurs when the degree of loss of this capacity becomes static or well-stabilized, and is not likely to improve despite continuing medical or rehabilitative measures.

(8) "Medically indigent" is abbreviated "MI", which is a prefix for UMAP form numbers.

(a) MI-13 is a UMAP form that explains to clients the rights and responsibilities they have as UMAP clients. A MI-13 form is current from the time it is completed until there is a break in eligibility of more than six consecutive months.

(b) MI-706 is a UMAP form entitled "UMAP Reimbursement Agreement" that authorizes reimbursement for a medical service.

(9) "Medically necessary" means reasonably calculated to prevent, diagnose, or cure conditions that endanger life, cause suffering and pain, cause physical deformity or malfunction, or threaten to cause a handicap, and there is no other equally effective course of treatment available or suitable for the client requesting the service that is more conservative or less costly.

(10) "Principal diagnosis at discharge" means the main medical problem, based on the best information available for review by UMAP.

R420-1-3. Client Eligibility Requirements.

(1) To be eligible for UMAP services, clients ~~[shall] must~~ meet the criteria in R414-309. ~~[income and asset limits and other eligibility requirements found in the Medical Assistance Manual, Volume III F, which is incorporated by reference. Manuals] These criteria can be viewed [at the local Office of Family Support, or] at the UMAP administrative office located at 288 N. 1460 W., Salt Lake City, Utah, or at any site where the Department of Workforce Services or the Department of Health determines eligibility for clients.~~

~~(2) Eligibility for UMAP services is determined at an Office of Family Support district office.~~

~~(3) 2~~ Before a client can receive services from UMAP, he must have a specific medical need that is within the UMAP scope of services and meets all other UMAP criteria.

R420-1-4. Program Access Requirements.

(1) UMAP has three medical clinics. Each clinic has on its staff a physician, or a physician assistant or nurse practitioner working under the supervision of a physician. For clients who reside in Salt Lake, Weber, Morgan, and Utah counties, if the physician or supervising physician determines it appropriate, the physician, physician assistant, or nurse practitioner shall evaluate and treat the client.

(2) The clinic ~~may [shall]~~ refer the client outside of the clinic only for treatment of covered conditions that cannot be treated in the clinic. The supervising physician shall decide the conditions that can be treated at the clinic. The clinic manager shall decide the services that are covered under UMAP.

(3) Clients residing in all other counties may contact the nearest Office of ~~[Family Support] Workforce Services~~ for a form MI-706. This office may then refer the client to a private physician who is willing to treat the client within the guidelines of UMAP criteria.

R420-1-5. Service Coverage.

(1) The scope of services covered by UMAP is limited to treatment of conditions that meet one or more of the following criteria, unless elsewhere excluded:

(a) an acute condition characterized by a rapid onset requiring prompt medical attention. UMAP shall not consider a condition to be ~~[not]~~ acute once it is medically established to have been in existence for four months or more, regardless of when the client began experiencing symptoms. Recurring conditions are not acute;

(b) a life-threatening condition that is not psychiatric;

(c) a communicable disease that poses a health risk to the general public;

(d) a condition that will result in irreversible blindness if left untreated, blindness meaning no better than 20/200 visual acuity in the better eye after correction.

(e) cataracts, if the correction is no better than 20/60 visual acuity in the better eye.

(f) eyeglasses for a client in a work or training program if the client cannot participate in the work or training without the eyeglasses, or for a diabetic client who cannot see well enough to administer his own medication.

(2) UMAP may cover the following medical services:

(a) outpatient hospital services;

(b) physician services;

(c) midwife and birthing center services;

(d) radiology and lab services;

(e) emergency transportation services for both air and ground;

(f) dental services;

(g) pharmacy services;

(h) rural health services;

(i) home health services for I.V. antibiotics.

(3) For all UMAP covered services, the principal diagnosis at discharge from the hospital is the reason for the care. UMAP may not consider the other diagnoses when determining whether the service is covered by UMAP.

(a) UMAP shall pay a ~~[minimal set] fixed~~ triage fee for emergency transportation, emergency room physicians, and emergency room facility charges for services that do not result in an inpatient admission, if the admission diagnosis is a UMAP covered medical condition, but the principal diagnosis at discharge is psychiatric.

(b) The ~~[minimal set] fixed~~ triage fee shall constitute payment for the entire service. A notation on the form MI-706 advises the provider that he received authorization for only the minimal set triage fee.

(4) A provider or a client may resolve questions about coverage of a specific condition or service by contacting the appropriate UMAP clinic in Salt Lake, Morgan, Weber, or Utah

counties, or the Office of ~~[Family Support]~~ Workforce Services for all other counties, depending upon where the client lives.

R420-1-6. Limitations and Excluded Services.

(1) Conditions that are not covered by UMAP include:

(a) chronic pain, back pain, knee pain, joint pain, from recurring or chronic conditions;
 (b) hernias that are not strangulated or incarcerated, carpal tunnel syndrome, bunions, nasal polyps;
 (c) mental illness or disorder, drug addiction, alcohol addiction;

(d) obesity, hormonal imbalance, bulimia, anorexia nervosa;
 (e) long-standing arthritis, except treatment of acute flare-ups is a covered service;

(f) allergies, cataracts, temporomandibular joint dysfunction, premenstrual syndrome, aseptic (avascular) necrosis;

(g) rhinitis, 24-hour gastritis, common cold, any condition for which there is no accepted medical therapy;

(h) a condition that is disabling, but does not meet the criteria listed in R420-1-5(1);

(i) a condition that is not covered by the Utah Medicaid program;

(j) a condition caused because of a snow skiing or snowboarding accident;

(k) a condition caused when the client was committing a crime. UMAP shall allow the client to present information to prove that involvement in the alleged crime did not cause or contribute to his medical condition. The client must submit this information within 60 days of the date of the denial;

(l) a condition caused when the client was being arrested;

(m) a condition caused when the client was injured by a law enforcement officer;

(n) a condition caused when the client was in custody[-];

(o) a condition that results from experimental or recreational use of drugs or chemicals. (with the exception of drinking distilled spirits, wine, or malt beverages, and smoking or chewing tobacco). UMAP considers use to be experimental or recreational if, on his own initiative, an individual uses:

(i) prescription drugs in a manner that is contrary to the physician's instructions for their use;

(ii) non-prescription drugs or chemicals in a manner that is contrary to package instructions, e.g., sniffing glue or other substances, drinking rubbing alcohol, laxative abuse;

(iii) illegal drugs, e.g., a drug or controlled substance, the use of which is a violation of state or federal law.

(p) UMAP determines use by an evaluation of the best available medical evidence regarding the condition.

(q) UMAP allows clients to present information to prove that experimental or recreational use of drugs or chemicals did not cause or contribute to the medical condition. Clients must submit this information within 60 days of the date of denial.

(2) Services that are not covered by UMAP include:

(a) cosmetic surgery;
 (b) tympanoplasties;
 (c) hysterectomies and pelvic surgery, except when there is a reasonable suspicion of a life threatening condition;
 (d) back surgeries, knee surgeries, joint surgeries, for recurring or chronic conditions;

(e) psychiatry, or any service provided to a client while he is in a psychiatric facility, wing, ward, or bed;

(f) diagnostic work, unless a covered condition is suspected;

(g) speech pathology, audiology (except to rule out a brain tumor), audiometry (except to rule out a brain stem lesion);

(h) medical supplies, except syringes, lancets, test strips for diabetics, and ostomy supplies;

(i) medical equipment, except an oxygen concentrator if required 24 hours a day;

(j) prosthetic devices, except once when the need for the device arises from any authorized surgery;

(k) care in a long-term care facility, physical therapy, rehabilitative services, chiropractic services;

(l) dental work (except for exam, x-ray, and extraction of infected teeth), dentures;

(m) sterilization (tubal ligation, vasectomy, etc.), abortion (unless the life of the mother would be endangered if an abortion were not performed), birth control;

(n) elective surgery, organ transplants;

(o) liver biopsy or use of Interferon when being prescribed for treatment of Hepatitis C;

(p) treatment in a pain clinic;

(q) non-emergency use of an emergency room or emergency transportation;

(r) a service that is not covered by the Utah Medicaid program;

(s) a service if the department determines that there is or was an effective less-costly alternative;

(t) a service provided to treat a medical condition, if the need for treatment arose while the client was in custody;

(u) a service for a condition that is a complication of, or a follow-up service for, a non-covered UMAP service. The only exception would be if the service was not covered as a result of lack of client eligibility[-];

(v) medication that is prescribed for the treatment of hypercholesterolemia;

(w) D4K anti-ulcer PPIs;

(x) hormones that are prescribed for the treatment of female hypogonadism.

R420-1-7. Form MI-706.

(1) UMAP may only pay for a service authorized on a form MI-706. ~~[Generally, t]~~ The client must obtain the form MI-706 before the service is provided. The client may obtain the form MI-706 after the service is provided if the service is within UMAP scope of services, meets all other UMAP criteria, and:

(a) is ~~a~~for follow-up service[s] for a surgery that UMAP has authorized. Follow-up services are for normal, uncomplicated post-surgery hospitalization, office follow-ups, or other services provided within six weeks of the surgery and directly related to the surgery; or

(b) is ~~for~~ an emergency service; or

(c) is ~~a~~for service[s] that ~~was~~were provided before UMAP approved the client for eligibility, and before the client had completed a current form MI-13. The client must request the form MI-706 no later than one year after the date of service, or the date UMAP approved his eligibility, whichever is later. The client shall provide any documentation that UMAP requires, or the client wants considered, to make scope-of-service decisions.

(2) A client must present the form MI-706 to the provider before receiving any service, except for situations in which there is no UMAP requirement for the client to obtain the form MI-706 prior to receiving the service. If a client presents a form MI-706 to a provider before receiving a service, and the provider accepts the form MI-706, the provider may not hold the client financially liable for the service that was provided, whether or not UMAP reimburses the provider. If a client does not present a form MI-706 to a provider, or if the provider does not accept the form MI-706, the provider may hold the client financially liable for the service and treat the client as a "self-pay" patient. Any time a provider receives a form MI-706, and bills UMAP using the MI-706 number, UMAP shall consider that the provider has accepted the form MI-706.

(3) After a client has completed a current form MI-13 and is approved for UMAP eligibility, he must present a form MI-706 to the provider for all non-emergency services before the services are provided.

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R420-1-9. Reimbursement.

UMAP shall only reimburse Utah Medicaid providers who accept payment from UMAP as payment in full for the service provided. UMAP adopts the Utah Medicaid reimbursement policies and payment rates for services covered by UMAP, with the following exceptions:

(1) outpatient services, and ambulatory surgical center services shall be reimbursed at the Medicaid rate, minus 10%;

(2) physician services, osteopathic services, and services provided by Federally Qualified Health Centers shall be reimbursed at the Medicaid rate, minus 10%;

(3) a client is required to pay a \$2 co-pay for each UMAP covered pharmacy item (those billed using a NDC code) each time the item is dispensed or purchased.

Because inpatient hospital services are not a benefit of UMAP, UMAP shall not reimburse for these services.

R420-1-10. Third Party Liability.

(1) UMAP may not reimburse for covered medical services if payment for the service can be, or could have been, obtained from other third-party sources. If partial payment is made by a third-party payor, UMAP shall pay the difference up to the limits set by Medicaid.

(2) Clients and providers shall disclose potentially liable third parties. When any other coverage is available (such as treatment at the Veterans Administration Hospital), the UMAP clinic or provider shall refer the client there for treatment, and UMAP may not authorize payment for those services.

(3) Clients who are potentially eligible for services through the Ryan White Title II Aids Drug Assistance Program (ADAP) must apply for, and follow through with their application for ADAP. UMAP shall not pay if the client fails to cooperate in obtaining benefits through that program.

R420-1-11. Client Rights and Responsibilities.

(1) The client shall make an appointment to see office or clinic staff.

(2) If a client misses an appointment in a UMAP clinic, the client shall have ~~either of~~ two options regarding future appointments. The client ~~may~~~~can~~ come in as a walk-in and wait to be seen on a first-come-first-served basis after clients who have appointments, or the client ~~may~~~~can~~ make a co-payment before being seen at his next appointment. The co-payment is \$1 for missing one appointment, \$2 for missing two consecutive appointments, and \$3 for missing three consecutive appointments. If the client misses more than three consecutive appointments, the client must come in as a walk-in and wait to be seen on a first-come-first-served basis after clients who have appointments. Clients may cancel UMAP clinic appointments up to two hours before the appointment with no penalty.

(3) If a client misses an appointment with a private provider, the client shall make a \$5 co-payment to UMAP for each of the client's next two appointments with private providers before the client will be given a form MI-706 for these appointments. If the client keeps these appointments, UMAP will refund the \$5 as soon as the client returns to UMAP and UMAP verifies that the client kept the appointment. UMAP shall consider appointments with private providers to be missed if the client cancels the appointment less than 24 hours before the appointment.

(4) UMAP may deny services to a client who verbally or physically abuses a member of the UMAP staff.

(5) UMAP shall send a Notice of Denial to a client who is denied coverage for a requested medical treatment. If a client or a provider is aggrieved by any action or inaction of the department, the person aggrieved may request a hearing in accordance with R410-14. A provider does not have standing to contest issues concerning scope of services or the client's eligibility status.

(6) The client shall be responsible for making a timely request for a form MI-706. If he fails to obtain the form MI-706, the client shall be liable for any costs incurred.

KEY: indigent, medicaid, UMAP

September 1, 2000

Notice of Continuation July 21, 1997

26-1-5

26-18-10



**End of the Notices of 120-Day
(Emergency) Rules Section**

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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 REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1996).

Natural Resources, Wildlife Resources **R657-11** Taking Furbearers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23126
FILED: 08/30/2000, 16:55
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources and the Wildlife Board have received several comments, both in support and opposition to Rule R657-11, Taking Furbearers. Any comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and the administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-11 provides the application procedures, standards, and requirements for taking furbearers. The provisions adopted in this rule are effective in providing the standards and requirements for taking furbearers. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE 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 RULE TO:
Debbie Sundell at the above address, by phone at (801) 538-4707, by FAX at (801) 538-4709, or Internet E-mail at nrdwr.dsundell@state.ut.us.

AUTHORIZED BY: John Kimball, Director

EFFECTIVE: 08/30/2000



Transportation, Preconstruction **R930-6** Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of- Way

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 23105
FILED: 08/23/2000, 10:37
RECEIVED BY: NL

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: *Utah Code*

Section 72-7-102 requires the department to make rules for the accommodation of utilities on the Utah Department of Transportation (UDOT)'s right-of-way.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE-YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: We have not received any comments from any person or persons either supporting or opposing this rule change.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: We need to have the rule in place in order to protect UDOT's right-of-way.

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

Transportation
Preconstruction
Fourth Floor, Calvin Rampton Building
4501 South 2700 West
Salt Lake City, UT 84114-8445, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Orlando Jerez at the above address, by phone at (801) 965-4176, by FAX at (801) 965-4564, or Internet E-mail at ojerez@dot.state.ut.us.

AUTHORIZED BY: Orlando Jerez, Chief Utility Railroad Engineer

EFFECTIVE: 08/23/2000



End of the Five-Year Notices of Review and Statements of Continuation

NOTICES OF RULE EFFECTIVE DATES

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.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Finance

No. 22836 (CPR): R25-7. Travel-Related Reimbursements for State Employees.
Published: July 15, 2000
Effective: September 2, 2000

Education

Administration

No. 23018 (NEW): R277-107. Educational Services Outside of Educator's Regular Employment.
Published: August 1, 2000
Effective: September 1, 2000

No. 23019 (AMD): R277-438. Dual Enrollment.
Published: August 1, 2000
Effective: September 1, 2000

No. 23020 (AMD): R277-445. Classifying Small Schools as Necessarily Existent.
Published: August 1, 2000
Effective: September 1, 2000

No. 23021 (AMD): R277-459. Teachers' Supplies and Materials Appropriation.
Published: August 1, 2000
Effective: September 1, 2000

No. 23022 (NEW): R277-474. School Instruction and Human Sexuality.
Published: August 1, 2000
Effective: September 1, 2000

No. 23023 (NEW): R277-475. Patriotic Education.
Published: August 1, 2000
Effective: September 1, 2000

No. 23024 (NEW): R277-476. Incentives for Elementary Reading Program.
Published: August 1, 2000
Effective: September 1, 2000

Environmental Quality

Environmental Response and Remediation

No. 22767 (AMD): R311-401-2. Hazardous Substances Priority List.
Published: May 1, 2000
Effective: August 25, 2000

Health

Health Systems Improvement, Health Facility Licensure

No. 22976 (AMD): R432-100-33. Medical Records.
Published: July 15, 2000
Effective: August 31, 2000

Insurance

Administration

No. 22797 (AMD): R590-160-8. Agency Review.
Published: May 15, 2000
Effective: August 31, 2000

Public Safety

Fire Marshal

No. 22981 (AMD): R710-2. Rules Pursuant to the Utah Fireworks Act.
Published: July 15, 2000
Effective: August 16, 2000

No. 22982 (AMD): R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.
Published: July 15, 2000
Effective: August 16, 2000

Highway Patrol

No. 22983 (R&R): R714-550. Rule for Spending Fees Generated by the Reinstatement of Driver Licenses.
Published: July 15, 2000
Effective: August 24, 2000

Tax Commission

Auditing

No. 22984 (AMD): R865-91-6. Returns by Husband and Wife, Either or Both of Whom Is a Nonresident Pursuant to Utah Code Ann. Section 59-10-119.
Published: July 15, 2000
Effective: August 31, 2000

NOTICES OF RULE EFFECTIVE DATES

No. 22985 (AMD): R865-19S-49. Sales to and by Farmers and Other Agriculture Producers Pursuant to Utah Code Ann. Section 59-12-104.

Published: July 15, 2000

Effective: August 31, 2000

Motor Vehicle Enforcement

No. 22987 (AMD): R877-23V-18. Qualifications for a Salvage Vehicle Buyer License Pursuant to Utah Code Ann. Section 41-3-202.

Published: July 15, 2000

Effective: August 31, 2000

Transportation

Operations, Traffic and Safety

No. 22978 (AMD): R920-50. Tramway Operations Safety Rules.

Published: July 15, 2000

Effective: August 31, 2000

End of the Notices of Rule Effective Dates Section

RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2000, including notices of effective date received through September 1, 2000, the effective dates of which are no later than September 15, 2000. 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).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.state.ut.us/>).

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 repealed text not printed in <i>Bulletin</i>
5YR = Five-Year Review	
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architectural and Engineering Services	22821	5YR	05/04/2000	2000-11/101
<u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	22836	AMD	see CPR	2000-11/4
R25-7	Travel-Related Reimbursements for State Employees	22836	CPR	09/02/2000	2000-14/54
<u>Fleet Operations</u>					
R27-1 (Changed to R27-10)	Identification Mark for State Motor Vehicles	22728	AMD	06/01/2000	2000-9/2
R27-2	Fleet Operations Adjudicative Proceedings	22807	NSC	05/23/2000	Not Printed
R27-10	Identification Mark for State Motor Vehicles	22808	NSC	06/26/2000	Not Printed

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<u>Fleet Operations, Surplus Property</u>					
R28-1	State Surplus Property Disposal	22729	AMD	06/01/2000	2000-9/3
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	22809	NSC	05/23/2000	Not Printed
<u>Purchasing and General Services</u>					
R33-3	Source Selection and Contract Formation	22678	AMD	06/15/2000	2000-6/3
R33-5	Construction and Architect-Engineer Selection	22679	AMD	06/15/2000	2000-6/10
R33-5-510	Application	22971	NSC	08/01/2000	Not Printed
<u>Records Committee</u>					
R35-2	Declining Appeal Hearings	22787	NSC	05/23/2000	Not Printed
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	22930	AMD	08/02/2000	2000-13/3
R58-7-2	Definitions	22913	AMD	07/18/2000	2000-12/5
R58-14	Holding Live Racoons or Coyotes in Captivity	22905	AMD	07/18/2000	2000-12/5
R58-17	Aquaculture and Aquatic Animal Health	22931	5YR	06/15/2000	2000-13/73
R58-17-2	Definitions	22879	NSC	06/26/2000	Not Printed
R58-18	Elk Farming	22932	AMD	08/02/2000	2000-13/7
R58-20	Domesticated Elk Hunting Parks	22933	AMD	08/02/2000	2000-13/10
R58-21	Trichomoniasis	22934	NEW	08/02/2000	2000-13/11
R58-22	Equine Infectious Anemia (EIA)	22935	NEW	08/02/2000	2000-13/12
<u>Plant Industry</u>					
R68-2	Utah Commercial Feed Act Governing Feed	22753	NSC	05/01/2000	Not Printed
R68-8-7	Labeling of Agricultural Seed Varieties	22646	AMD	05/30/2000	2000-5/4
<u>Regulatory Services</u>					
R70-310	Grade A Pasteurized Milk	22657	5YR	02/10/2000	2000-5/64
R70-310	Grade A Pasteurized Milk	22658	AMD	04/03/2000	2000-5/5
R70-310-2	Adoption of USPHS Ordinance	22707	NSC	05/01/2000	Not Printed
R70-630	Water Vending Machine	22596	5YR	01/11/2000	2000-3/91
R70-630	Water Vending Machine	22597	AMD	03/03/2000	2000-3/5
ALCOHOLIC BEVERAGE CONTROL					
<u>Administration</u>					
R81-1-7	Disciplinary Hearings	22639	AMD	03/27/2000	2000-4/4
R81-1-12	Alcohol Training and Education Seminar	22752	NSC	05/01/2000	Not Printed
R81-1-12	Alcohol Training and Education Seminar	22812	AMD	07/03/2000	2000-10/4

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CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-1	Procurement of Architectural and Engineering Services	22572	NEW	03/13/2000	2000-2/5
R131-2	Capitol Hill Facility Use	22568	NEW	03/13/2000	2000-2/4
R131-7	State Capitol Preservation Board Master Planning Policy	22574	NEW	03/13/2000	2000-2/7
COMMERCE					
<u>Administration</u>					
R151-46b	Department of Commerce Administrative Procedures Act Rules	22761	AMD	06/01/2000	2000-9/4
<u>Occupational and Professional Licensing</u>					
R156-1-205	Advisory Peer Committees - Direct to Appoint with Concurrence of Board - Terms of Office - Vacancies in Office - Removal from Office - Quorum Requirements - Appointment of Chairman - Division to Provide Secretary - Compliance with Open and Public Meetings Act - Compliance with Utah Administrative Procedures Act - No Provision for Per Diem and Expenses	22587	AMD	02/15/2000	2000-2/8
R156-1-308a	Renewal Dates	22645	AMD	03/20/2000	2000-4/12
R156-17a	Pharmacy Practice Act Rules	22318	AMD	see CPR	99-17/10
R156-17a	Pharmacy Practice Act Rules	22318	CPR	02/15/2000	2000-2/17
R156-17a-602	Operating Standards - Pharmacy Intern - Scope of Practice	22738	NSC	05/01/2000	Not Printed
R156-24a-503	Physical Therapist Supervisory Authority and Responsibility	22734	NSC	05/01/2000	Not Printed
R156-26 (Changed to R156-26a)	Certified Public Accountant Licensing Act Rules	22887	AMD	07/18/2000	2000-12/7
R156-31b-304	Quality Review Program	22576	AMD	02/15/2000	2000-2/10
R156-31b-304	Quality Review Program	22663	NSC	02/24/2000	Not Printed
R156-31c-201	Issuing a License	22577	AMD	02/15/2000	2000-2/11
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	22725	5YR	04/06/2000	2000-9/183
R156-46b	Division Utah Administrative Procedures Act Rules	22861	AMD	07/06/2000	2000-11/6
R156-55b	Electricians Licensing Rules	22740	AMD	06/01/2000	2000-9/20
R156-55b	Electricians Licensing Rules	22966	NSC	08/01/2000	Not Printed
R156-55b-304	Continuing Education	22910	NSC	06/26/2000	Not Printed
R156-55c-102	Definitions	22965	NSC	08/01/2000	Not Printed
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules	22878	NEW	07/18/2000	2000-12/18
R156-56	Utah Uniform Building Standard Act Rules	22398	AMD	see CPR	99-20/15
R156-56	Utah Uniform Building Standard Act Rules	22398	CPR	02/15/2000	2000-2/21
R156-56	Utah Uniform Building Standard Act Rules	22790	AMD	07/01/2000	2000-10/5
R156-56	Utah Uniform Building Standard Act Rules	22967	NSC	08/01/2000	Not Printed

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R156-56-602	Factory Built Housing Dealer Bonds	22478	AMD	see CPR	99-22/7
R156-56-602	Factory Built Housing Dealer Bonds	22478	CPR	02/15/2000	2000-2/24
R156-56-706	Amendments to the IPC	22449	AMD	see CPR	99-21/7
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R994-202-103	Employee Leasing Companies	22824	NSC	05/25/2000	Not Printed
R994-204	Included Employment	22721	5YR	04/04/2000	2000-9/187
R994-204-303	Factors Determining Independent Contractor Status	22825	NSC	05/25/2000	Not Printed
R994-205	Exempt Employment	22722	5YR	04/04/2000	2000-9/188
R994-206	Agricultural Labor	22723	5YR	04/04/2000	2000-9/188
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R994-308-106	Interest Earned on Cash Deposits	22827	NSC	05/25/2000	Not Printed
R994-315-105	Waiver of Penalty for Failure to Report	22614	AMD	04/21/2000	2000-4/66
R994-403	Claim for Benefits	22828	NSC	05/25/2000	Not Printed
R994-404	Wage Freeze Following Workers' Compensation	22829	NSC	05/25/2000	Not Printed
R994-405-503	Evidence and Burden of Proof	22800	AMD	06/16/2000	2000-10/49
R994-700	Licensing and Regulation of Private Employment Agencies	22705	REP	06/16/2000	2000-7/16

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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
5YR = Five-Year Review	repealed text not printed in <i>Bulletin</i>
EXD = Expired	

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	23005	R277-472	NSC	08/01/2000	Not Printed
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	22754	R527-200	NSC	05/01/2000	Not Printed
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Administrative Services, Fleet Operations, Surplus Property	22809	R28-3	NSC	05/23/2000	Not Printed
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Commerce, Administration	22761	R151-46b	AMD	06/01/2000	2000-9/4
Commerce, Occupational and Professional Licensing	22861	R156-46b	AMD	07/06/2000	2000-11/6
Environmental Quality, Air Quality	22727	R307-102-1	AMD	08/03/2000	2000-9/28
Environmental Quality, Drinking Water	23099	R309-150	5YR	08/10/2000	2000-17/87
	22730	R309-302	5YR	04/10/2000	2000-9/185
	22604	R309-405	NEW	04/17/2000	2000-3/25
Human Resource Management, Administration	22842	R477-4	AMD	07/05/2000	2000-11/57
	22850	R477-12	AMD	07/05/2000	2000-11/82
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	22428	R652-40-300	NSC	05/25/2000	Not Printed
	22681	R652-50-610	AMD	07/13/2000	2000-6/40
	22819	R652-70-2400	AMD	02/29/2000	99-21/47
	22835	R652-120	5YR	05/09/2000	2000-11/102
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	22795	R850-40-300	NSC	08/01/2000	Not Printed
	22664	R850-130-400	NSC	02/25/2000	Not Printed
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	22841	R477-3	NSC	07/05/2000	Not Printed
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	22611	R277-904	AMD	03/03/2000	2000-2/13
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	22659	R510-302	AMD	05/16/2000	2000-5/43
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	22623	R307-110	NSC	02/25/2000	Not Printed
	22553	R307-110-19	AMD	02/10/2000	2000-1/14
	22660	R307-110-19	NSC	02/25/2000	Not Printed
	22688	R307-115	NSC	03/20/2000	Not Printed
	22686	R307-121-2	NSC	03/20/2000	Not Printed
	22687	R307-122-2	NSC	03/20/2000	Not Printed
	22605	R307-150	AMD	04/06/2000	2000-3/21
	23090	R307-170	5YR	08/07/2000	2000-17/79
	23089	R307-205	5YR	08/02/2000	2000-17/86
	22724	R307-320	5YR	04/05/2000	2000-9/184
	22606	R307-415-5a	AMD	04/06/2000	2000-3/23
	22668	R307-801	AMD	see CPR	2000-5/10
	22668	R307-801	AMD	08/01/2000	2000-13/67
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	22627	R884-24P-33	AMD	03/28/2000	2000-4/56
	22508	R884-24P-44	AMD	01/20/2000	99-23/107
	22805	R884-24P-57	AMD	06/21/2000	2000-10/47
	22903	R884-24P-60	NSC	06/27/2000	Not Printed
	22522	R884-24P-62	AMD	01/20/2000	99-24/40
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	22879	R58-17-2	NSC	06/26/2000	Not Printed
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	22972	R657-6	AMD	08/15/2000	2000-14/10
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	22651	R657-46	AMD	04/04/2000	2000-5/51
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	22782	R616-2-3	AMD	06/02/2000	2000-9/176
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	22921	R414-304	AMD	08/02/2000	2000-13/33
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	22790	R156-56	AMD	07/01/2000	2000-10/5
	22967	R156-56	NSC	08/01/2000	Not Printed
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
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	22967	R156-56	NSC	08/01/2000	Not Printed
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706	CPR	01/18/2000	99-24/47
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	22737	R156-65	NSC	05/01/2000	Not Printed
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	22556	R527-200	AMD	02/01/2000	2000-1/37
	22754	R527-200	NSC	05/01/2000	Not Printed
	22937	R527-332	NEW	08/01/2000	2000-13/44
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	22877	R512-41	AMD	07/20/2000	2000-12/51
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	22966	R156-55b	NSC	08/01/2000	Not Printed
	22910	R156-55b-304	NSC	06/26/2000	Not Printed
	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
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	22967	R156-56	NSC	08/01/2000	Not Printed
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
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	22962	R251-705	NSC	08/01/2000	Not Printed
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	22890	R861-1A-20	NSC	06/27/2000	Not Printed
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	22674	R606-2-2	NSC	03/20/2000	Not Printed
	22675	R606-3-2	NSC	03/20/2000	Not Printed
	22997	R606-3	5YR	07/07/2000	2000-15/28
	22998	R606-4	5YR	07/07/2000	2000-15/29
	22999	R606-5	5YR	07/07/2000	2000-15/29
	22676	R606-5-2	NSC	03/20/2000	Not Printed
	23000	R606-6	5YR	07/07/2000	2000-15/30
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	22884	R309-205 (Changed to R309-520)	AMD	08/15/2000	2000-12/34
	22885	R309-210 (Changed to R309-545)	AMD	08/15/2000	2000-12/38
	22730	R309-302	5YR	04/10/2000	2000-9/184
	22604	R309-405	NEW	04/17/2000	2000-3/25
	22704	R309-605	NEW	06/12/2000	2000-7/8
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	22704	R309-605	NEW	06/12/2000	2000-7/8
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	22938	R657-5-15	AMD	08/01/2000	2000-13/55
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	22889	R861-1A-12	NSC	06/27/2000	Not Printed
	22890	R861-1A-20	NSC	06/27/2000	Not Printed
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	22850	R477-12	AMD	07/05/2000	2000-11/82
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Human Resource Management, Administration	22847	R477-9	AMD	07/05/2000	2000-11/76
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	22767	R311-401-2	AMD	08/25/2000	2000-9/42
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	22773	R315-2	AMD	07/15/2000	2000-9/45
	22653	R315-2-9	NSC	02/25/2000	Not Printed
	22794	R315-2-9	NSC	05/25/2000	Not Printed
	22539	R315-3	NSC	01/25/2000	Not Printed
	22654	R315-3-20	NSC	02/25/2000	Not Printed
	22541	R315-5	NSC	01/25/2000	Not Printed
	22542	R315-7	NSC	01/25/2000	Not Printed
	22778	R315-7	AMD	07/15/2000	2000-9/93
	22543	R315-8	NSC	01/25/2000	Not Printed
	22544	R315-13	NSC	01/25/2000	Not Printed
	22545	R315-16	NSC	01/25/2000	Not Printed
	22780	R315-16	AMD	07/15/2000	2000-9/147
	22546	R315-50	NSC	01/25/2000	Not Printed
	22547	R315-101	NSC	01/25/2000	Not Printed
	22781	R315-101	AMD	07/15/2000	2000-9/157
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	22631	R432-8	5YR	02/01/2000	2000-4/70
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	22635	R432-12	5YR	02/01/2000	2000-4/73
	22636	R432-13	5YR	02/01/2000	2000-4/73
	22637	R432-14	5YR	02/01/2000	2000-4/74
	22638	R432-30	5YR	02/01/2000	2000-4/74
	22976	R432-100-33	AMD	08/31/2000	2000-14/8
	22655	R432-270	5YR	02/09/2000	2000-5/64
	22743	R432-270	NSC	05/01/2000	Not Printed
	22852	R432-300	AMD	08/08/2000	2000-11/39
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	22816	R765-605	AMD	06/15/2000	2000-10/39
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	22891	R865-6F-14	NSC	06/27/2000	Not Printed
	22892	R865-6F-16	NSC	06/27/2000	Not Printed
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	22895	R865-6F-26	NSC	06/27/2000	Not Printed
	22896	R865-6F-27	NSC	06/27/2000	Not Printed
	22897	R865-6F-29	NSC	06/27/2000	Not Printed
	22992	R865-9I	NSC	08/01/2000	Not Printed
	22984	R865-9I-6	AMD	08/31/2000	2000-14/37
	22898	R865-9I-46	NSC	06/27/2000	Not Printed
	22899	R865-9I-48	NSC	06/27/2000	Not Printed
<u>HIV</u>					
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	22921	R414-304	AMD	08/02/2000	2000-13/33
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	22898	R865-9I-46	NSC	06/27/2000	Not Printed
	22899	R865-9I-48	NSC	06/27/2000	Not Printed
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	22825	R994-204-303	NSC	05/25/2000	Not Printed
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	22797	R590-160-8	AMD	08/31/2000	2000-10/32
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	22875	R590-199	NEW	07/21/2000	2000-11/91
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	22665	R590-88	5YR	02/15/2000	2000-5/66
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	22640	R590-131	AMD	see CPR	2000-4/44
	22640	R590-131	CPR	06/29/2000	2000-10/52
	22667	R590-132	5YR	02/15/2000	2000-5/67
	22746	R590-164	5YR	04/11/2000	2000-9/187
	22747	R590-164	NSC	05/23/2000	Not Printed
	22416	R590-197	NEW	01/25/2000	99-20/30
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	22901	R873-22M-27	NSC	06/27/2000	Not Printed
	22902	R873-22M-36	NSC	06/27/2000	Not Printed
	22804	R873-22M-38	AMD	06/21/2000	2000-10/47
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	22318	R156-17a	AMD	see CPR	99-17/10
	22318	R156-17a	CPR	02/15/2000	2000-2/17
	22738	R156-17a-602	NSC	05/01/2000	Not Printed
	22734	R156-24a-503	NSC	05/01/2000	Not Printed
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	22663	R156-31b-304	NSC	02/24/2000	Not Printed
	22577	R156-31c-201	AMD	02/15/2000	2000-2/11
	22725	R156-38	5YR	04/06/2000	2000-9/183
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	22740	R156-55b	AMD	06/01/2000	2000-9/20
	22966	R156-55b	NSC	08/01/2000	Not Printed
	22910	R156-55b-304	NSC	06/26/2000	Not Printed
	22965	R156-55c-102	NSC	08/01/2000	Not Printed
	22878	R156-55d	NEW	07/18/2000	2000-12/18
	22398	R156-56	AMD	see CPR	99-20/15
	22398	R156-56	CPR	02/15/2000	2000-2/21
	22790	R156-56	AMD	07/01/2000	2000-10/5
	22967	R156-56	NSC	08/01/2000	Not Printed
	22478	R156-56-602	AMD	see CPR	99-22/7
	22478	R156-56-602	CPR	02/15/2000	2000-2/24
	22449	R156-56-706	AMD	see CPR	99-21/7
	22449	R156-56-706	CPR	01/18/2000	99-24/47
	22791	R156-56-706	AMD	07/01/2000	2000-10/18
	22482	R156-57	AMD	01/04/2000	99-23/13
	22701	R156-57-302a	AMD	05/02/2000	2000-7/6
	22677	R156-59	AMD	04/17/2000	2000-6/11
	22786	R156-59	NSC	07/10/2000	Not Printed
	22863	R156-59-302	AMD	07/10/2000	2000-11/9
	22726	R156-60c	5YR	04/06/2000	2000-9/183
	22588	R156-61	AMD	02/15/2000	2000-2/12
	22735	R156-61-302e	NSC	05/01/2000	Not Printed
	22801	R156-63	AMD	06/15/2000	2000-10/24
	22736	R156-63-302a	NSC	05/01/2000	Not Printed
	22737	R156-65	NSC	05/01/2000	Not Printed
	22888	R156-65	REP	07/18/2000	2000-12/21
	22589	R156-66	AMD	02/15/2000	2000-2/14
	22507	R156-71	AMD	01/04/2000	99-23/14
	22700	R156-71-202	AMD	05/02/2000	2000-7/7
	22792	R156-71-202	AMD	06/15/2000	2000-10/26
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	22813	R501-11	AMD	06/19/2000	2000-10/30
	22629	R501-12	AMD	03/17/2000	2000-4/38
	22661	R501-13	R&R	04/15/2000	2000-5/32
	22695	R501-19	NEW	05/02/2000	2000-6/28
	22696	R501-20	NEW	05/02/2000	2000-6/31
	22697	R501-21	NEW	05/02/2000	2000-6/33
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	22612	R623-1	AMD	03/03/2000	2000-3/88
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School and Institutional Trust Lands, Administration	22795	R850-40-300	NSC	08/01/2000	Not Printed
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	23085	R414-19A	5YR	08/02/2000	2000-17/88
	22953	R414-21	NSC	08/01/2000	Not Printed
	22954	R414-31	NSC	08/01/2000	Not Printed
	22955	R414-33	NSC	08/01/2000	Not Printed
	23086	R414-33	5YR	08/02/2000	2000-17/88
	23087	R414-33A	5YR	08/02/2000	2000-17/89
	22956	R414-45	NSC	08/01/2000	Not Printed
	22957	R414-54	NSC	08/01/2000	Not Printed
	22513	R414-61	NEW	see CPR	99-24/15
	22513	R414-61	CPR	03/30/2000	2000-4/69
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	22817	R448-20	NEW	06/19/2000	2000-10/29
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Environmental Quality, Air Quality	23090	R307-170	5YR	08/07/2000	2000-17/79
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<u>MOTOR VEHICLE RECORD</u>					
Public Safety, Driver License	22756	R708-36	NEW	06/01/2000	2000-9/180
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	22808	R27-10	NSC	06/26/2000	Not Printed
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	22724	R307-320	5YR	04/05/2000	2000-9/184
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	22901	R873-22M-27	NSC	06/27/2000	Not Printed
	22902	R873-22M-36	NSC	06/27/2000	Not Printed
	22804	R873-22M-38	AMD	06/21/2000	2000-10/47
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	22861	R156-46b	AMD	07/06/2000	2000-11/6
	22740	R156-55b	AMD	06/01/2000	2000-9/20
	22966	R156-55b	NSC	08/01/2000	Not Printed
	22910	R156-55b-304	NSC	06/26/2000	Not Printed
	22965	R156-55c-102	NSC	08/01/2000	Not Printed
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	22643	R164-4	AMD	03/20/2000	2000-4/20
	22644	R164-14	AMD	03/20/2000	2000-4/29
	22866	R164-14	NSC	05/25/2000	Not Printed
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	22643	R164-4	AMD	03/20/2000	2000-4/20
	22864	R164-11	NSC	05/25/2000	Not Printed
	22865	R164-12	NSC	05/25/2000	Not Printed
	22644	R164-14	AMD	03/20/2000	2000-4/29
	22866	R164-14	NSC	05/25/2000	Not Printed
	22867	R164-26	NSC	05/25/2000	Not Printed
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	22801	R156-63	AMD	06/15/2000	2000-10/24
	22736	R156-63-302a	NSC	05/01/2000	Not Printed
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	22691	R317-4	NSC	03/20/2000	Not Printed
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	22659	R510-302	AMD	05/16/2000	2000-5/43
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	22553	R307-110-19	AMD	02/10/2000	2000-1/14
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	22876	R512-1	AMD	07/20/2000	2000-12/49
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	22859	R315-320	AMD	07/15/2000	2000-11/19
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	22720	R313-34	5YR	04/03/2000	2000-9/186
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	22889	R861-1A-12	NSC	06/27/2000	Not Printed
	22890	R861-1A-20	NSC	06/27/2000	Not Printed
	22802	R861-1A-36	AMD	06/21/2000	2000-10/44
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	22891	R865-6F-14	NSC	06/27/2000	Not Printed
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	22893	R865-6F-18	NSC	06/27/2000	Not Printed
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	22710	R865-12L-9	AMD	06/21/2000	2000-8/29
	22803	R865-12L-16	AMD	06/21/2000	2000-10/45
	22993	R865-13G	NSC	08/01/2000	Not Printed
	22996	R865-16R	5YR	07/07/2000	2000-15/30
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	22901	R873-22M-27	NSC	06/27/2000	Not Printed
	22902	R873-22M-36	NSC	06/27/2000	Not Printed
	22804	R873-22M-38	AMD	06/21/2000	2000-10/47
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	22987	R877-23V-18	AMD	08/31/2000	2000-14/41
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	22627	R884-24P-33	AMD	03/28/2000	2000-4/56
	22508	R884-24P-44	AMD	01/20/2000	99-23/107
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	22903	R884-24P-62	NSC	06/27/2000	Not Printed
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	22687	R307-122-2	NSC	03/20/2000	Not Printed
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	22984	R865-9I-6	AMD	08/31/2000	2000-14/37
	22898	R865-9I-46	NSC	06/27/2000	Not Printed
	22899	R865-9I-48	NSC	06/27/2000	Not Printed
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	23010	R277-520	NSC	08/01/2000	Not Printed
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	23006	R277-514	NSC	08/01/2000	Not Printed
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	22530	R746-360-2	NSC	01/25/2000	Not Printed
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	22674	R606-2-2	NSC	03/20/2000	Not Printed
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	22978	R920-50	AMD	08/31/2000	2000-14/43
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	22978	R920-50	AMD	08/31/2000	2000-14/43
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	22978	R920-50	AMD	08/31/2000	2000-14/43
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	22892	R865-6F-16	NSC	06/27/2000	Not Printed

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	22990	R912-16	NEW	08/16/2000	2000-14/42
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	22548	R994-202-103	AMD	02/02/2000	2000-1/60
	22824	R994-202-103	NSC	05/25/2000	Not Printed
	22721	R994-204	5YR	04/04/2000	2000-9/187
	22825	R994-204-303	NSC	05/25/2000	Not Printed
	22722	R994-205	5YR	04/04/2000	2000-9/188
	22723	R994-206	5YR	04/04/2000	2000-9/188
	22826	R994-307-101	NSC	05/25/2000	Not Printed
	22827	R994-308-106	NSC	05/25/2000	Not Printed
	22828	R994-403	NSC	05/25/2000	Not Printed
	22829	R994-404	NSC	05/25/2000	Not Printed
	22800	R994-405-503	AMD	06/16/2000	2000-10/49
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	22909	R708-32	NSC	06/20/2000	Not Printed
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	22857	R315-312-1	AMD	07/15/2000	2000-11/17
	22857	R315-320	AMD	07/15/2000	2000-11/19
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	22491	R317-501	REP	02/16/2000	99-23/45
	22492	R317-502	REP	02/16/2000	99-23/48
	22493	R317-503	REP	02/16/2000	99-23/56
	22494	R317-504	REP	02/16/2000	99-23/58
	22495	R317-505	REP	02/16/2000	99-23/59
	22496	R317-506	REP	02/16/2000	99-23/63
	22497	R317-507	REP	02/16/2000	99-23/65
	22498	R317-508	REP	02/16/2000	99-23/73
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	22500	R317-510	REP	02/16/2000	99-23/77
	22501	R317-511	REP	02/16/2000	99-23/80
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	22860	R317-2-13	AMD	08/01/2000	2000-11/24
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	22880	R657-5	AMD	07/18/2000	2000-12/53
	22938	R657-5-15	AMD	08/01/2000	2000-13/55
	22520	R657-6	AMD	01/18/2000	99-24/35
	22972	R657-6	AMD	08/15/2000	2000-14/10
	23126	R657-11	5YR	08/30/2000	2000-18/99
	22392	R657-13	AMD	01/03/2000	99-20/31
	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
	22881	R657-15	5YR	05/22/2000	2000-12/59
	22712	R657-19	5YR	03/30/2000	2000-8/34
	22733	R657-19	NSC	05/01/2000	Not Printed
	22713	R657-19	AMD	05/17/2000	2000-8/20
	22882	R657-21	5YR	05/22/2000	2000-12/59
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	22783	R657-27	AMD	06/08/2000	2000-9/177
	22974	R657-28	AMD	08/15/2000	2000-14/20
	22714	R657-33	AMD	05/17/2000	2000-8/23
	22975	R657-37	AMD	08/15/2000	2000-14/23
	22521	R657-38	AMD	01/18/2000	99-24/38
	22649	R657-38	AMD	04/04/2000	2000-5/46
	22939	R657-41	AMD	08/01/2000	2000-13/56
	22650	R657-41-2	AMD	04/04/2000	2000-5/50
	22651	R657-46	AMD	04/04/2000	2000-5/51
	22562	R657-47	NEW	02/01/2000	2000-1/40
	22940	R657-47	AMD	08/01/2000	2000-13/58
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	22693	R657-13-4	AMD	04/24/2000	2000-6/41
	22648	R657-13-12	AMD	04/04/2000	2000-5/45
	22882	R657-21	5YR	05/22/2000	2000-12/59
	22973	R657-21	AMD	08/15/2000	2000-14/18
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