

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Editor

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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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EDITOR'S NOTES

NOTICE OF PUBLICATION ERROR: INCORRECT DATE IN FOOTER OF NOVEMBER 1, 2001, BULLETIN

The Division of Administrative Rules discovered an application error that affects all rules and notices published in the November 1, 2001, issue of the *Utah State Bulletin*. Because of what appears now to be a programming bug, the switch from daylight savings time to standard time caused the publication date, defined as a Custom Date Property in the *Bulletin* document, to shift from November 1, 2001, to October 31, 2001. When the document was reprinted, the erroneous date of October 31, 2001, was inserted into the footer that appears on almost every page of the *Bulletin*. The error was not discovered until after publication.

The official date of the publication, as noted on the cover and title page, is November 1, 2001. The incorrect footer date does not affect the public comment period, which opened November 1, 2001, and runs through Monday, December 3, 2001, at 5:00 p.m., or as may be noted in individual rules, through a later date designated in the Rule Analysis.

The Division regrets any inconvenience or confusion this error may have caused.

If you have additional questions about this issue, please contact Ken Hansen, Director, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, Phone 801-538-3777, Fax 801-538-1773, E-mail khansen@utah.gov.

End of the Editor's Notes Section

SPECIAL NOTICES

COMMERCE OCCUPATIONAL AND PROFESSIONAL LICENSING

PUBLIC NOTICE OF 2002 BOARD AND COMMITTEE MEETING SCHEDULE

NOTE: Meetings are subject to change - contact the Division at (801) 530-6628 to confirm meetings. Most meetings are held in the Heber M. Wells Building, 160 East 300 South, Salt Lake City, UT

January:

01/03/2001 Security Services Licensing Board, 9:00 a.m.; 01/04/2001 Cosmetology/Barber, etc. Board, 9:00 a.m.; 01/08/2001 Professional Engineer/Professional Land Surveyor Board, 9:00 a.m.; 01/08/2001 Podiatric Physician Board, 9:00 a.m.; 01/08/2001 UBCC Plumbing Advisory Committee, 9:00 a.m.; 01/09/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 01/09/2001 Physicians Licensing Board, 9:00 a.m.; 01/09/2001 Professional Counselor Licensing Board, 9:00 a.m.; 01/09/2001 Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 01/10/2001 Chiropractic Physician Licensing Board, 9:00 a.m.; 01/10/2001 UBCC Structural Advisory Committee, 12:00 noon; 01/11/2001 Plumbers Licensing Board, 8:30 a.m.; 01/14/2001 Psychology Board, 9:00 a.m.; 01/15/2001 Citation Hearings, 9:00 a.m.; 01/15/2001 UBCC Education Advisory Committee, 1:00 p.m.; 01/17/2001 Electricians Licensing Board, 9:00 a.m.; 01/18/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 01/18/2001 Uniform Building Code Commission, 9:00 a.m.; 01/22/2001 Pharmacy Board, 9:00 a.m.; 01/22/2001 UBCC Fire Protection Advisory Committee, 10:00 a.m.; 01/23/2001 Utah Board of Accountancy, 1:00 p.m.; 01/23/2001 Controlled Substance Precursor Board, 2:00 p.m.; 01/24/2001 Professional Employer Organization Board, 9:00 a.m.; 01/25/2001 Nursing Board, 8:00 a.m.; 01/30/2001 Contractor Licensing Board, 8:00 a.m.

February:

02/01/2001 Plumbers Licensing Board, 8:30 a.m.; 02/12/2001 Massage Therapy Board, 9:00 a.m.; 02/13/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 02/13/2001 Physicians Licensing Board, 9:00 a.m.; 02/15/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 02/19/2001 Citation Hearings, 9:00 a.m.; 02/21/2001 Physician Assistant Board, 8:00 a.m.; 02/26/2001 Pharmacy Board, 9:00 a.m.; 02/27/2001 Alarm System and Security Licensing Board, 9:00 a.m.; 02/27/2001 Utah Board of Accountancy, 1:00 p.m.; 02/28/2001 Preneed/Funeral Services Board, 9:00 a.m.; 02/28/2001 Electricians Licensing Board 9:00 a.m.

March:

03/01/2001 Uniform Building Code Commission, 9:00 a.m.; 03/04/2001 Osteopathic Physicians Licensing Board, 9:00 a.m.; 03/07/2001 Veterinary Board, 9:00 a.m.; 03/08/2001 Plumbers Licensing Board, 8:30 a.m.; 03/08/2001 Electricians Licensing Board, 9:00 a.m.; 03/12/2001 UBCC Plumbing Advisory Committee, 9:00 a.m.; 03/13/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 03/13/2001 Physicians Licensing Board, 9:00 a.m.; 03/13/2001 Professional Counselor Licensing Board, 9:00 a.m.; 03/14/2001 Social Worker Licensing Board, 8:00 a.m.; 03/14/2001 Chiropractic Physician Licensing Board, 9:00 a.m.; 03/14/2001 Deception Detection Examiners Board, 9:00 a.m.; 03/14/2001 UBCC Structural Advisory Committee, 12:00 noon; 03/15/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 03/19/2001 Professional Engineer/Prof Land Surveyor Board, 9:00 a.m.; 03/19/2001 Building Inspector Licensing Board, 9:00 a.m.; 03/19/2001 Citation Hearings, 9:00 a.m.; 03/19/2001 Controlled Substance Database Committee, 9:00 a.m.; 03/19/2001 UBCC Education Advisory Committee, 1:00 p.m.; 03/20/2001 Health Care Assistant Board, 9:00 a.m.; 03/21/2001 Genetic Counselor Board, 8:00 a.m.; 03/22/2001 Marriage/Family Therapist Board, 9:00 a.m.; 03/26/2001 Prescriptive Practice Peer Committee, 8:00 a.m.; 03/26/2001 Pharmacy Board, 9:00 a.m.; 03/27/2001 Utah Board of Accountancy, 1:00 p.m.; 03/29/2001 Nursing Board, 8:00 a.m.

April:

04/02/2001 Architect Board and Architect IDP Committee, 9:00 a.m.; 04/04/2001 Security Services Licensing Board, 9:00 a.m.; 04/08/2001 Psychology Board, 9:00 a.m.; 04/09/2001 Radiology Technology Licensing Board 9:00 a.m.; 04/09/2001 Licensed Substance Abuse Counselor Board, 9:00 a.m.; 04/10/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 04/10/2001 Physicians Licensing Board, 9:00 a.m.; 04/10/2001 Professional Counselor Licensing Board, 9:00 a.m.; 04/10/2001 Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 04/10/2001 UBCC Architectural Advisory Committee, 1:30 p.m.; 04/12/2001 Plumbers Licensing Board, 8:30 a.m.; 04/14/2001 Naturopathic Physician Board, 9:00 a.m.; 04/16/2001 Dietitian Board, 9:00 a.m.; 04/16/2001 Citation Hearings, 9:00 a.m.; 04/16/2001 UBCC Electrical Advisory Committee, 9:00 a.m.; 04/16/2001 UBCC Education Advisory Committee, 1:00 p.m.; 04/18/2001 Electricians Licensing Board, 9:00 a.m.; 04/19/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 04/19/2001 Uniform Building Code Commission, 9:00 a.m.; 04/23/2001 Pharmacy Board, 9:00 a.m.; 04/23/2001 Health Facility Administrator Board, 9:00 a.m.; 04/24/2001 Contractor Licensing Board, 8:00 a.m.; 04/24/2001 UBCC Mechanical Advisory Committee, 9:00 a.m.; 04/24/2001 Utah

Board of Accountancy, 1:00 p.m.; 04/25/2001 Professional Employer Organization Board, 9:00 a.m.; 04/26/2001 Nursing Board, 8:00 a.m.; 04/26/2001 UBCC Fire Protection Advisory Committee, 10:00 a.m.

May:

05/08/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 05/08/2001 Acupuncture Board, 9:00 a.m.; 05/08/2001 Professional Counselor Licensing Board, 9:00 a.m.; 05/08/2001 Physicians Licensing Board, 9:00 a.m.; 05/10/2001 Plumbers Licensing Board, 8:30 a.m.; 05/14/2001 Massage Therapy Board, 9:00 a.m.; 05/15/2001 Uniform Building Code Commission, 9:00 a.m.; 05/16/2001 Physician Assistant Board, 8:00 a.m.; 05/16/2001 Electricians Licensing Board, 9:00 a.m.; 05/16/2001 UBCC Structural Advisory Committee, 12:00 noon; 05/17/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 05/21/2001 Professional Engineer/Prof Land Surveyor Board, 9:00 a.m.; 05/21/2001 Citation Hearings, 9:00 a.m.; 05/21/2001 UBCC Education Advisory Committee, 1:00 p.m.; 05/22/2001 Alarm System and Security Licensing Board, 9:00 a.m.; 05/22/2001 Utah Board of Accountancy, 1:00 p.m.; 05/23/2001 Preneed/Funeral Services Board, 9:00 a.m.; 05/28/2001 Prescriptive Practice Peer Committee, 8:00 a.m.; 05/28/2001 Pharmacy Board, 9:00 a.m.; 05/28/2001 UBCC Fire Protection Advisory Committee, 10:00 a.m.; 05/31/2001 Nursing Board, 8:00 a.m.

June:

06/03/2001 Osteopathic Physicians Licensing Board, 9:00 a.m.; 06/03/2001 Cosmetology/Barber, etc. Board, 9:00 a.m.; 06/04/2001 Architect Board and Architect IDP Committee, 9:00 a.m.; 06/06/2001 Security Services Licensing Board, 9:00 a.m.; 06/06/2001 Occupational Therapy Board, 9:00 a.m.; 06/06/2001 Veterinary Board, 9:00 a.m.; 06/12/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 06/12/2001 Optometry Board, 9:00 a.m.; 06/12/2001 Professional Counselor Licensing Board, 9:00 a.m.; 06/12/2001 Physicians Licensing Board, 9:00 a.m.; 06/12/2001 Private Probation Provider Board, 9:00 a.m.; 06/12/2001 UBCC Architectural Advisory Committee, 1:30 p.m.; 06/13/2001 Chiropractic Physician Licensing Board, 9:00 a.m.; 06/14/2001 Social Worker Licensing Board, 8:00 a.m.; 06/14/2001 Plumbers Licensing Board, 8:30 a.m.; 06/18/2001 UBCC Electrical Advisory Committee, 9:00 a.m.; 06/18/2001 Citation Hearings, 9:00 a.m.; 06/18/2001 UBCC Education Advisory Committee, 1:00 p.m.; 06/19/2001 Health Care Assistant Board, 9:00 a.m.; 06/20/2001 Genetic Counselor Board, 8:00 a.m.; 06/20/2001 Electricians Licensing Board, 9:00 a.m.; 06/21/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 06/21/2001 Uniform Building Code Commission, 9:00 a.m.; 06/25/2001 Pharmacy Board, 9:00 a.m.; 06/26/2001 UBCC Mechanical Advisory Committee, 9:00 a.m.; 06/26/2001 Utah Board of Accountancy, 1:00 p.m.; 06/26/2001 Controlled Substance Precursor Board, 2:00 p.m.; 06/28/2001 Nursing Board, 8:00 a.m.; 06/28/2001 Marriage/Family Therapist Board, 9:00 a.m.

July:

07/08/2001 Psychology Board, 9:00 a.m.; 07/09/2001 UBCC Plumbing Advisory Committee, 9:00 a.m.; 07/09/2001 Physical Therapy Board, 9:00 a.m.; 07/09/2001 Podiatric Physician Board, 9:00 a.m.; 07/10/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 07/10/2001 Professional Counselor Licensing Board, 9:00 a.m.; 07/10/2001 Physicians Licensing Board, 9:00 a.m.; 07/11/2001 UBCC Structural Advisory Committee, 12:00 noon; 07/12/2001 Plumbers Licensing Board, 8:30 a.m.; 07/16/2001 Professional Engineer/Prof Land Surveyor Board, 9:00 a.m.; 07/16/2001 Building Inspector Licensing Board, 9:00 a.m.; 07/16/2001 Citation Hearings, 9:00 a.m.; 07/16/2001 Controlled Substance Database Committee, 9:00 a.m.; 07/16/2001 UBCC Education Advisory Committee, 1:00 p.m.; 07/17/2001 Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 07/18/2001 Electricians Licensing Board, 9:00 a.m.; 07/19/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 07/19/2001 Uniform Building Code Commission, 9:00 a.m.; 07/23/2001 Pharmacy Board, 9:00 a.m.; 07/23/2001 UBCC Fire Protection Advisory Committee, 10:00 a.m.; 07/25/2001 Professional Employer Organization Board, 9:00 a.m.; 07/26/2001 Nursing Board, 8:00 a.m.; 07/31/2001 Contractor Licensing Board, 8:00 a.m.; 07/31/2001 Utah Board of Accountancy, 1:00 p.m.

August:

08/01/2001 Security Services Licensing Board, 9:00 a.m.; 08/06/2001 Architect Board and Architect IDP Committee, 9:00 a.m.; 08/09/2001 Plumbers Licensing Board, 8:30 a.m.; 08/13/2001 Recreational Therapy Board, 9:00 a.m.; 08/13/2001 Massage Therapy Board, 9:00 a.m.; 08/14/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 08/14/2001 Professional Counselor Licensing Board, 9:00 a.m.; 08/14/2001 Physicians Licensing Board, 9:00 a.m.; 08/14/2001 UBCC Architectural Advisory Committee, 1:30 p.m.; 08/15/2001 Physician Assistant Board, 8:00 a.m.; 08/15/2001 Electricians Licensing Board, 9:00 a.m.; 08/16/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 08/16/2001 Uniform Building Code Commission, 9:00 a.m.; 08/20/2001 UBCC Electrical Advisory Committee, 9:00 a.m.; 08/20/2001 Environmental Health Scientist Board, 9:00 a.m.; 08/20/2001 Citation Hearings, 9:00 a.m.; 08/20/2001 UBCC Education Advisory Committee, 1:00 p.m.; 08/22/2001 Preneed/Funeral Services Board, 9:00 a.m.; 08/27/2001 Prescriptive Practice Peer Committee, 8:00 a.m.; 08/27/2001 Pharmacy Board, 9:00 a.m.; 08/28/2001 UBCC Mechanical Advisory Committee, 9:00 a.m.; 08/28/2001 Alarm System and Security Licensing Board, 9:00 a.m.; 08/28/2001 Utah Board of Accountancy, 1:00 p.m.; 08/30/2001 Nursing Board, 8:00 a.m.

SPECIAL NOTICES

September:

09/02/2001 Cosmetology/Barber, etc. Board, 9:00 a.m.; 09/05/2001 Veterinary Board, 9:00 a.m.; 09/05/2001 ADRP Board, , 9:00 a.m.; 09/09/2001 Osteopathic Physicians Licensing Board, 9:00 a.m.; 09/10/2001 UBCC Plumbing Advisory Committee, 9:00 a.m.; 09/11/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 09/11/2001 Physicians Licensing Board, 9:00 a.m.; 09/11/2001 Professional Counselor Licensing Board, 9:00 a.m.; 09/12/2001 Social Worker Licensing Board, 8:00 a.m.; 09/12/2001 Chiropractic Physician Licensing Board, 9:00 a.m.; 09/12/2001 UBCC Structural Advisory Committee, 12:00 noon; 09/13/2001 Plumbers Licensing Board, 8:30 a.m.; 09/17/2001 Professional Engineer/Prof Land Surveyor Board, 9:00 a.m.; 09/17/2001 Certified Shorthand Reporters Board, 9:00 a.m.; 09/17/2001 Citation Hearings, 9:00 a.m.; 09/17/2001 UBCC Education Advisory Committee, 1:00 p.m.; 09/18/2001 Health Care Assistant Board, 9:00 a.m.; 09/19/2001 Genetic Counselor Board, 8:00 a.m.; 09/19/2001 Electricians Licensing Board, 9:00 a.m.; 09/20/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 09/20/2001 Uniform Building Code Commission, 9:00 a.m.; 09/24/2001 Landscape Architects Licensing Board, 9:00 a.m.; 09/24/2001 Pharmacy Board, 9:00 a.m.; 09/24/2001 UBCC Fire Protection Advisory Committee, 10:00 a.m.; 09/25/2001 Utah Board of Accountancy, 1:00 p.m.; 09/27/2001 Nursing Board, 8:00 a.m.; 09/27/2001 Marriage/Family Therapist Board, 9:00 a.m.

October:

10/01/2001 Architect Board and Architect IDP Committee, 9:00 a.m.; 10/03/2001 Security Services Licensing Board, 9:00 a.m.; 10/07/2001 Psychology Board, 9:00 a.m.; 10/08/2001 Radiology Technology Licensing Board, 9:00 a.m.; 10/08/2001 Licensed Substance Abuse Counselor Board, 9:00 a.m.; 10/09/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 10/09/2001 Professional Counselor Licensing Board, 9:00 a.m.; 10/09/2001 Acupuncture Board, 9:00 a.m.; 10/09/2001 Physicians Licensing Board, 9:00 a.m.; 10/09/2001 UBCC Architectural Advisory Committee, 1:30 p.m.; 10/11/2001 Plumbers Licensing Board, 8:30 a.m.; 10/15/2001 UBCC Electrical Advisory Committee, 9:00 a.m.; 10/15/2001 Citation Hearings, 9:00 a.m.; 10/15/2001 UBCC Education Advisory Committee, 1:00 p.m.; 10/16/2001 Hearing Instrument Specialist Licensing Board, 9:00 a.m.; 10/17/2001 Electricians Licensing Board, 9:00 a.m.; 10/18/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 10/18/2001 Uniform Building Code Commission, 9:00 a.m.; 10/22/2001 Health Facility Administrator Board, 9:00 a.m.; 10/22/2001 Speech-Language Pathology/Audiology Board, 9:00 a.m.; 10/22/2001 Pharmacy Board, 9:00 a.m.; 10/23/2001 UBCC Mechanical Advisory Committee, 9:00 a.m.; 10/23/2001 Deception Detection Examiners Board, 9:00 a.m.; 10/23/2001 Utah Board of Accountancy, 1:00 p.m.; 10/24/2001 Professional Employer Organization Board, 9:00 a.m.; 10/25/2001 Nursing Board, 8:00 a.m.; 10/30/2001 Contractor Licensing Board, 8:00 a.m.

November:

11/05/2001 Respiratory Care Board, 9:00 a.m.; 11/08/2001 Plumbers Licensing Board, 8:30 a.m.; 11/12/2001 Naturopathic Physician Board, 9:00 a.m.; 11/12/2001 Professional Engineer/Prof Land Surveyor Board, 9:00 a.m.; 11/12/2001 UBCC Plumbing Advisory Committee, 9:00 a.m.; 11/13/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 11/13/2001 Professional Counselor Licensing Board, 9:00 a.m.; 11/13/2001 Physicians Licensing Board, 9:00 a.m.; 11/14/2001 UBCC Structural Advisory Committee, 12:00 noon; 11/15/2001 Nursing Board, 8:00 a.m.; 11/15/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 11/15/2001 Uniform Building Code Commission, 9:00 a.m.; 11/19/2001 Prescriptive Practice Peer Committee, 8:00 a.m.; 11/19/2001 Building Inspector Licensing Board, 9:00 a.m.; 11/19/2001 Massage Therapy Board, 9:00 a.m.; 11/19/2001 Citation Hearings, 9:00 a.m.; 11/19/2001 Controlled Substance Database Committee, 9:00 a.m.; 11/19/2001 UBCC Education Advisory Committee, 1:00 p.m.; 11/21/2001 Physician Assistant Board, 8:00 a.m.; 11/21/2001 Electricians Licensing Board, 9:00 a.m.; 11/21/2001 Preneed/Funeral Services Board, 9:00 a.m.; 11/26/2001 Pharmacy Board, 9:00 a.m.; 11/26/2001 UBCC Fire Protection Advisory Committee, 10:00 a.m.; 11/27/2001 Alarm System and Security Licensing Board, 9:00 a.m.; 11/27/2001 Utah Board of Accountancy, 1:00 p.m.

December:

12/02/2001 Cosmetology/Barber, etc. Board, 9:00 a.m.; 12/02/2001 Osteopathic Physicians Licensing Board, 9:00 a.m.; 12/03/2001 Architect Board and Architect IDP Committee, 9:00 a.m.; 12/05/2001 Security Services Licensing Board, 9:00 a.m.; 12/11/2001 Residence Lien Recovery Fund Board, 8:00 a.m.; 12/11/2001 Professional Counselor Licensing Board, 9:00 a.m.; 12/11/2001 Physicians Licensing Board, 9:00 a.m.; 12/11/2001 UBCC Architectural Advisory Committee, 1:30 p.m.; 12/12/2001 Social Worker Licensing Board, 8:00 a.m.; 12/13/2001 Nursing Board, 8:00 a.m.; 12/13/2001 Plumbers Licensing Board, 8:30 a.m.; 12/16/2001 UBCC Education Advisory Committee, 1:00 p.m.; 12/17/2001 UBCC Electrical Advisory Committee, 9:00 a.m.; 12/17/2001 Pharmacy Board, 9:00 a.m.; 12/17/2001 Citation Hearings, 9:00 a.m.; 12/18/2001 Health Care Assistant Board, 9:00 a.m.; 12/18/2001 Utah Board of Accountancy, 1:00 p.m.; 12/19/2001 Genetic Counselor Board, 8:00 a.m.; 12/19/2001 Electricians Licensing Board, 9:00 a.m.; 12/20/2001 Dentist/Dental Hygienist Board, 8:00 a.m.; 12/20/2001 Uniform Building Code Commission, 9:00 a.m.; 12/20/2001 Marriage/Family Therapist Board, 9:00 a.m.

**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. 01-22, dated October 26, 2001 (<http://library.utah.gov/01-22.html>). For a copy of the complete list, 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 it on the World Wide Web at the address above.

PROCLAMATION

WHEREAS, since the close of the 2001 General Session of the 54th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

NOW, THEREFORE, I, MICHAEL O. LEAVITT, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 54th Legislature of the State of Utah into a Sixth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 14th day of November, 2001, at 12:00 noon, for the following purpose:

For the Senate to advise and consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2001 General Session of the 54th Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 30th day of October, 2001.

(STATE SEAL)

MICHAEL O. LEAVITT
Governor

OLENE S. WALKER
Lieutenant Governor

**INSURANCE
ADMINISTRATION**

**PUBLIC HEARING ON PROPOSED FEES FOR SERVICES PROVIDED ON COSTS INCURRED BY THE UTAH
INSURANCE DEPARTMENT DURING FISCAL YEAR 2002**

The Department of Insurance will hold a hearing on Monday, December 3, 2001, at 9:00 a.m. in Room 1112 of the State Office Building (behind the State Capitol), Salt Lake City, Utah.

SPECIAL NOTICES

The purpose of the hearing is to obtain public comment on proposed fees to be assessed for services provided and costs incurred by the Department during Fiscal Year 2002. Subsection 63-38-3.2(2)(b) of the Budgetary Procedures Act provides that an agency shall conduct a public hearing on any proposed regulatory fee.

Background: Various divisions of the Department assess fees for licensure, registration, or certification of individuals, agencies and companies to engage in the business of insurance. The main change to be proposed will be the single license fee and the single service fee for insurer and other organization licensees. The proposed fee schedule has been prepared for consideration by the Insurance Department for the 2002 General Session. The fee schedule will be distributed at the December 3, 2001, hearing and can be found on the web at: <http://www.insurance.utah.gov/ruleindex.html>.

For further information, please contact Jilene Whitby at (801) 538-3803.

End of the Special Notices Section

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 October 16, 2001, 12:00 a.m., and November 1, 2001, 11:59 p.m. are included in this, the November 15, 2001, 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 each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least December 17, 2001. 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 March 15, 2002, 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 (2001); 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
R27-1
Definitions**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 24187
FILED: 11/01/2001, 15:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reenacted version of the rule references statutorily defined terms and narrows the definition of other terms.

SUMMARY OF THE RULE OR CHANGE: In addition to changes in language to most of the definitions of terms contained in the rule being repealed, the rule being enacted eliminates the following terms: "Authorized Carrier," "Motorized Equipment," "Official University Business," and "Required State Vehicle." The rule being enacted also adds the following terms and their respective definitions to the body of R27-1: "Accident Review Committee," "Betterment," "Capital Only Lease Vehicle," "Driving Privilege Review Board," "Feature," "Full Service Lease," "Fleet Vehicle Advisory Committee," "Non-Road Vehicle," and "Specialty Vehicle."

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The rule amendments only affect definitions of terms used throughout the Division's other rules.
- ❖ LOCAL GOVERNMENTS: None--Local government is not affected by rules promulgated by the Division.
- ❖ OTHER PERSONS: None--Other persons are not affected by rules promulgated by the Division.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Other persons are not affected by rules promulgated by the Division.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fleet Operations' rules regulate the management and use of state-owned motor vehicles. This rule does not have a fiscal impact on businesses. Raylene G. Ireland

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Steve Saltzgiver, Director

R27. Administrative Services, Fleet Operations.

[R27-1. Definitions.

R27-1-1. Authority.

~~—(1) Pursuant to Section 63A-9-401 the Department of Administrative Services is responsible for establishing rules regarding the State fleet.~~

R27-1-2. Definitions.

~~—(1) "Accident" means any vehicular occurrence, in which a state-owned vehicle or personal vehicle, being used to conduct state business, regardless of total cost of damage repair. May also be referred to as an incident.~~

~~—(2) "Agency" as used in this rule is the same as found in Subsections 63A-9-101.1(a), 63A-9-101.1(b), and 63A-9-101.1(c).~~

~~—(3) "Agency Motor Vehicle Policy (AMV)" refers to the policy that covers agency specific needs that are not addressed by state vehicle rules. Agencies shall not adopt policies which are less restrictive than the state vehicle rules.~~

~~—(4) "Alternative Fuel Vehicle (AFV)" refers to a vehicle either designed and manufactured by an original equipment manufacturer or a converted vehicle designed to operate in either a dual fuel, flexible fuel, or dedicated modes on fuels other than gasoline or diesel. Examples of alternative fuel types are electricity, bio diesel, fossil fuel hybrids, compressed natural gas, propane, hydrogen, methanol, ethanol, and any other vehicle fuel source approved by the Federal government's Department of Energy (DOE). AFVs shall be tracked in the division's fleet system.~~

~~—(5) "Authorized Carrier" means a common or contract carrier connected with the freight business that is regulated by the Public Service Commission or the Interstate Commerce Commission or successor agencies.~~

~~—(6) "Authorized Driver" is a current state officer, employee, volunteer or their designee who is conducting state business and who holds a valid driver license in accordance with the vehicle type that will be operated. Authorized Drivers may also be referred to as operator, employee or customer.~~

~~—(7) "Authorized Passenger" is any person or animal that has been pre approved by department head to accompany the driver or designee.~~

~~—(8) "Commute Use" refers to an employee driving a state-owned vehicle from the employee's place of business to the employee's place of residence, until the start of the next business day for more than five calendar days per month.~~

~~—(9) "Computerized Automotive Resource System (CARS)" refers to the Division of Fleet Operations', modular based, fleet information tracking system.~~

—(10) "Compressed Natural Gas Vehicle (CNG)" refers to a vehicle which is fueled by compressed natural gas.

—(11) "Department" is the Department of Administrative Services.

—(12) "Division" is the Division of Fleet Operations.

—(13) "Emergency Vehicle" refers to state owned fire personnel vehicles, medical assistance vehicles and police vehicles.

—(14) "Expansion vehicle" is a vehicle purchased when an agency requires an additional vehicle in order to complete the duties assigned to the requesting agency and will increase the size of the state fleet.

—(15) "Extreme Duty Vehicle" includes, but is not limited to, emergency vehicles and vehicles driven primarily off road or in dirty conditions.

—(16) "Central Fleet" is all Division of Fleet Operations managed vehicles.

—(17) "Fixed costs" are the cost of capital, licensing, overhead, depreciation, replacement, betterments, insurance, title and registration fees.

—(18) "FO number" refers to a vehicle specific number assigned to each state owned vehicle for tracking purposes.

—(19) "Fuel Network" is the state program that provides an infrastructure of fueling, maintenance and repair facilities for the care of state vehicles.

—(20) "Heavy duty Vehicle" refers to motor vehicles greater than 10,000 Gross Vehicle Weight Range (GVWR). This classification of vehicle includes licensed, non licensed, off road and construction type vehicles greater than 10,000 GVWR. Heavy-duty vehicles shall be tracked in the divisions' fleet tracking system.

—(21) "Light duty Vehicle" refers to motor vehicles between 3,000 GVWR and 10,000 GVWR. Light duty vehicles shall be tracked in the divisions' fleet tracking system.

—(22) "Miscellaneous Equipment" includes non fleet related equipment such as transits, surveying equipment, traffic counters, semaphores, and diagnostic related equipment. Such items are not required to be tracked with the division's system, but they may be tracked at the option of each agency and with the approval of the division.

—(23) "Motorized Equipment" are small utility vehicles or specialized equipment less than 3,000 GVWR used to perform routine tasks in a specific, controlled or confined work environment. The vehicles include, but are not limited to the following examples: golf carts; all terrain vehicles (ATVs); lawn mowers; farm tractors; snowmobiles; motorized rubber rafts; motorized carts; boats; weed-trimmers; trenchers; compressors; snow blowers; pallet jacks; forklifts; and generators. Such items are not required to be tracked with the division's system, but they may be tracked at the option of each agency and with the approval of the division.

—(24) "Motor Pool" is the program within the Department of Administrative Services, Fleet Operations, which is responsible for all motor vehicles owned or leased by an agency on a daily basis.

—(25) "Motor Vehicle" as used in this rule is the same as found in Subsections 63A-9-101.6(a) and 63A-9-101.6(b).

—(26) "Motor Vehicle Review Committee (MVRC)" refers to the panel which oversees the Division of Fleet Operations (DFO) and duties are as specified in Section 63A-9-302.

—(27) "Non Preventable Accident" is defined by the National Safety Council as any occurrence involving an accident/incident in which everything that could have been reasonably done to prevent it was done and the accident/incident still occurred. Non preventable

accidents shall include vandalized state owned vehicles or personal vehicles, being used to conduct state business.

—(28) "Official University Business" refers to authorized activities in which university employees (faculty or staff), students or designated agents related to approved programs or functions of the universities, colleges, departments, operating units and related organizations may use a state owned vehicle.

—(29) "Other Equipment" is used as a category on the state vehicle report to group vehicles and equipment not specifically identified in a standard reporting category.

—(30) "Personal Use" is the use of a state owned vehicle to conduct an employee's personal affairs, not related to state business.

—(31) "Preventable Accident" is defined by the National Safety Council as any occurrence involving a company, or in this case a state owned vehicle, which results in property damage and/or personal injury, regardless of who was injured, what property was damaged, to what extent, or where it occurred, in which the authorized driver in question failed to do everything that could have reasonably been done to prevent it.

Preventable accidents are not limited to collisions, it also includes damage to the interior of the state owned vehicle due to improperly locked doors, smoke or burn damage caused by smoking in the vehicle or lack of general care of the vehicles interior.

—(32) "Preventive Maintenance (PM)" refers to vehicle services which include lube, oil and filter changes conducted at regular time intervals to deter mechanical breakdowns.

—(33) "Regular Duty Vehicle" is a vehicle that is driven primarily on paved roads under normal driving conditions.

—(34) "Replacement cycle" means the criteria established to determine when the replacement of a state owned vehicle is necessary. A replacement cycle is established according to vehicle type and use.

—(35) "Replacement vehicle" refers to a vehicle purchased to replace a state owned vehicle which has met replacement cycle criteria.

—(36) "Required State Vehicle" includes all Light duty, Heavy-duty, replacement vehicles, and Alternative Fuel Vehicles (AFV) owned, operated, or in the possession of a state agency.

—(37) "Service Level Agreement (SLA)" refers to an agreement, signed annually, between an agency and DFO in which the agency agrees to follow all rules, policies and procedures published by DFO concerning the use of state owned vehicles. This document also clearly defines the level of service between DFO and agencies.

—(38) "State of Utah Fuel Card" refers to a credit card issued to vehicles by the fuel network program, to be used when purchasing fuel, fluids, wiper blades, car washes, preventive maintenance and minor repairs which cost less than \$250, unless otherwise authorized.

—(39) "State owned vehicle" as used in this rule is the same as found in Section 63A-9-101.7.

—(40) "Unique Equipment" refers to high cost vehicles and equipment such as trains; locomotives; airplanes; jets; mobile power stations; and helicopters. Unique equipment shall be tracked with the fleet system.

—(41) "Variable costs" include, but are not limited to fuel, oil, tires, services, repairs, maintenance and preventive maintenance.

—(42) "Vehicle Identification Number (VIN)" refers to the number issued by the vehicle manufacturer to identify the vehicle in the event of a theft; this number can be found on the driver's side of the dashboard below the windshield.

— (43) "Vendor" refers to the person or persons offering sales or services for state-owned vehicles, such as preventive maintenance or repair services.

R27-1. Definitions.

R27-1-1. Authority.

(1) This rule is established pursuant to Section 63A-9-401, which requires the Department of Administrative Services, Division of Fleet Operations, to establish rules regarding the State Fleet.

R27-1-2. Definitions.

(1) "Accident" any occurrence, in which a state vehicle is involved in a mishap resulting in harm or injury to persons, or damage to property, regardless of total cost of treatments or repairs. It may also be referred to as an incident.

(2) "Accident Review Committee (ARC)" refers to the panel formed by each agency to review accidents in which agency employees are involved and make a determination as to whether or not said accidents were preventable.

(3) "Agency" for the purposes of this rule, is defined by Subsection 63A-9-101.1 (a)(b)(c).

(4) "Agency Motor Vehicle Policy (AMV)" any policy written by an agency that covers any agency-specific needs involving the use of a state vehicle that are not addressed by state vehicle rules. Agencies shall not adopt policies that are less restrictive than the State vehicle rules.

(5) "Alternative Fuel Vehicles (AFV)" a vehicle designed and manufactured by an original equipment manufacturer or a converted vehicle designed to operate either on a dual-fuel, flexible-fuel, or dedicated mode while using fuels other than gasoline or diesel. Examples of alternative fuel types are electricity, bio-diesel, fossil-fuel hybrids, compressed natural gas, propane, hydrogen, methanol, ethanol, and any other vehicle fuel source approved by the Federal government's Department of Energy (DOE). AFVs shall be identified and tracked in DFO's fleet information system.

(6) "Authorized Driver" Any individual identified by an agency in DFO's Fleet Information System as having the authority, within his or her scope of employment, to operate a state vehicle on the agency's behalf, who holds a valid driver license, and has completed the specific training and other criteria required by DFO, Risk Management or employing agency for the vehicle type that will be operated. An Authorized Driver may also be referred to as operator, employee or customer.

(7) "Authorized Passenger" Any state employee acting within the scope of his or her employment, or any other person or animal whose transport is either necessary for the performance of the authorized driver's employment duties, or has been pre-approved by the appropriate department head to accompany an authorized driver.

(8) "Betterment" any equipment, enhancement or accessory requested by an agency that goes above and beyond the standard features for the standard vehicle established by DFO for a given vehicle class.

(9) "Capital only lease vehicle" vehicle with a lease designed to recover depreciation cost, (vehicle cost less salvage value spread over the estimated useful life of the vehicle, less the incremental cost of Alternative Fuel Configuration), plus overhead costs only. Capital only leases are subject to DFO approval.

(10) "Central Fleet" All state vehicles managed by the Division of Fleet Operations.

(11) "Commuter Use" An employee driving a state vehicle from the employee's place of business to the employee's place of

residence, until the start of the next business day for more than five calendar days per month.

(12) "Compressed Natural Gas Vehicle (CNG)" refers to a vehicle that may be fueled with compressed natural gas.

(13) "Department" is the Department of Administrative Services.

(14) "Division" is the Division of Fleet Operations.

(15) "Driving Privilege Review Board (DPRB)" refers to the panel formed for the purpose of reviewing Accident Review Committee (ARC) decisions regarding the suspension, withdrawal or revocation of the state vehicle driving privilege.

(16) "Emergency Vehicle" any state vehicle which is primarily used for the purpose of providing law enforcement and public safety services as defined in Section 53-12-102 (3)(a) & (b), or fire service, or emergency medical services.

(17) "Expansion vehicle" is a vehicle purchased when an agency requires an additional vehicle in order to complete the duties assigned to the requesting agency and will increase the size of the state fleet. The purchase of an expansion vehicle requires legislative approval.

(18) "Extreme Duty Vehicle" a designation used for preventive maintenance purposes, includes, but is not limited to, emergency vehicles and vehicles driven primarily off-road.

(19) "Feature" refers to any option or accessory that is available from the vehicle manufacturer.

(20) "Fixed costs" for the purposes of this rule include depreciation, overhead, licensing, betterment, insurance, and title costs, as well as registration fees.

(21) "Fleet Vehicle Advisory Committee" refers to a panel formed for the purpose of advising DFO, after input from user agencies, as to the vehicle, included features, and equipment, that will constitute the standard vehicle for each class in the fleet.

(22) "FO number" refers to a vehicle specific number assigned to each state vehicle for tracking purposes.

(23) "Fuel Network" The state program that provides an infrastructure for fueling state vehicles.

(24) "Full Service Lease" type of lease designed to recover depreciation costs, overhead costs and all variable costs.

(25) "Heavy-duty Vehicle" refers to motor vehicles having a gross vehicle weight range (GVWR) greater than 10,000 pounds. In addition to vehicles licensed for on road use, includes non-road vehicles, as defined in R27-1-2(31), with a GVWR greater than 10,000 pounds. Heavy-duty vehicles shall be tracked in DFO's fleet information system.

(26) "Light-duty Vehicle" refers to motor vehicles having a gross vehicle weight rating (GVWR) of 10,000 pounds or less. In addition to vehicles licensed for on road use, includes non-road vehicles, as defined in R27-1-2(31), with a GVWR of 10,000 pounds or less. Light-duty vehicles shall be tracked in DFO's fleet information system.

(27) "Miscellaneous Equipment" refers to any equipment, enhancement or accessory that is installed on or in a motor vehicle by persons other than the original vehicle manufacturer, and other non-fleet related equipment. Includes, but is not limited to, light bars, 800 MHz radios, transits, surveying equipment, traffic counters, semaphores, and diagnostic related equipment. Miscellaneous Equipment shall be tracked in DFO's fleet information system.

(28) "Motor Pool" generally, vehicles within the central fleet, as defined in R27-1-2 (10), that is made available to agencies for lease on a short-term basis.

(29) "Motor Vehicle" as defined by Subsection 63A-9-101(6)(a) and (b), and for the purposes of this rule, covers a wide array of self-propelled vehicles that can carry passengers and is not limited in application to automobiles.

(30) "Motor Vehicle Review Committee (MVRC)" refers to the panel formed to advise the Division of Fleet Operations (DFO). The duties of the MVRC are as specified in section 63A-9-302.

(31) "Non-Preventable Accident" defined by the National Safety Council as any occurrence involving an accident/incident in which everything that could have been reasonably done to prevent it was done and the accident/incident still occurred. Non-preventable accidents shall include vandalism of state vehicles being used to conduct state business.

(32) "Non-road vehicle" means a vehicle, regardless of GVWR, that is not licensed for on-road use. Includes, but is not limited to, vehicles used principally for construction and other non-transportation purposes. Golf carts, farm tractors, snowmobiles, forklifts and boats are examples of vehicles in this category. Non-road vehicles shall be tracked in DFO's fleet information system.

(33) "Other Equipment" is used as a category on the state vehicle report to group vehicles and equipment not specifically identified in other standard reporting categories.

(34) "Personal Use" The use of a state vehicle to conduct an employee's personal affairs, not related to state business.

(35) "Preventable Accident" is defined by the National Safety Council as any occurrence involving a company, or in this case a state vehicle, which results in property damage and/or personal injury, regardless of who was injured, what property was damaged, to what extent, or where it occurred, in which the authorized driver in question failed to do everything that could have reasonably been done to prevent it.

(a) Preventable accidents are not limited to collisions.

(b) As used in this rule, "preventable accidents" include, but are not limited to: damage to the interior of the state vehicle due to improperly locked doors, smoke or burn damage caused by smoking in the vehicle or lack of general care of the vehicles interior.

(36) "Preventive Maintenance (PM)" refers to vehicle services that include lube, oil and filter changes conducted at regular time intervals to deter mechanical breakdowns.

(37) "Regular Duty Vehicle" a designation used for preventive maintenance purposes, means a vehicle that is driven primarily on paved roads under normal driving conditions.

(38) "Replacement cycle" refers to the criteria established to determine when the replacement of a state vehicle is necessary. A replacement cycle has a time and mileage element, and is established according to vehicle type and use.

(39) "Replacement vehicle" refers to a vehicle purchased to replace a state vehicle that has met replacement cycle criteria.

(40) "Service Level Agreement (SLA)" refers to an agreement, signed annually, between an agency and DFO in which the agency agrees to follow all rules, policies and procedures published by DFO concerning the use of state vehicles. This document also clearly defines the level of service between DFO and agencies.

(41) "Specialty Vehicle" any state vehicle that is designed, constructed or equipped in a manner that allows for uses that are beyond the normal capabilities of the standard vehicle in the applicable class.

(42) "State of Utah Fuel Card" refers to a purchase card issued to vehicles by the fuel network program, to be used when purchasing fuel. Fluids and minor miscellaneous items that may also be purchased with the "State of Utah Fuel Card" cannot exceed the

monthly monetary limits placed on such purchases by DFO/Fuel Network, unless otherwise authorized.

(43) "State vehicle" for the purposes of this rule, is defined by Subsection 63A-9-101.7.

(44) "Unique Motorized Equipment" (UME) refers to high-cost vehicles and equipment such as trains; locomotives; airplanes; jets; mobile power stations and helicopters. Unique equipment shall be tracked in DFO's fleet information system.

(45) "Variable costs" include, but are not limited to fuel, oil, tires, services, repairs, maintenance and preventive maintenance.

(46) "Vehicle Identification Number (VIN)" refers to the number issued by the vehicle manufacturer to identify the vehicle in the event of a theft; this number can be found on the driver's side of the dashboard below the windshield.

(47) "Vendor" refers to the person or persons offering sales or services for state vehicles, such as preventive maintenance or repair services.

KEY: definitions
October 16, 2000
63A-9-401

▼ ————— ▼

Administrative Services, Fleet Operations **R27-3** Vehicle Use Standards

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE No.: 24186
FILED: 11/01/2001, 15:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule provides a more narrowed explanation of acceptable use of a state vehicle.

SUMMARY OF THE RULE OR CHANGE: In addition to minor language changes, the rule being enacted institutes the following additional requirements and conditions: Section R27-3-3 requires agencies to provide DFO with specific information regarding individuals who have specifically been granted the authority to operate state vehicles on behalf of the agency, and the minimum requirements to be met by an authorized driver in order to operate a state vehicle, and the circumstances under which the authority to operate a state vehicle is deemed withdrawn. Section R27-3-4 sets forth the conditions under which the use of a state vehicle is generally authorized, as well as instances when use is not authorized. Section R27-3-5 enumerates the circumstances when personal use of a state vehicle may be authorized. Section R27-3-6 requires agencies to file an Employee Reimbursement/Earnings Request Form in accordance with Division of Finance policy FIACCT 10-01.00, entitled "Travel-State Vehicle Usage-Documentation and Taxation," when commute use is authorized. Section R27-3-9 imposes an assortment of duties upon agencies with regard to insuring

that all operators meet all driver-related criteria for use to be authorized, to report correct odometer readings, and to maintain the vehicle in good repair and in an unaltered condition. Section R27-3-10 enumerates the duties of operators of motor pool vehicles. The rule also adds sections prohibiting the following: the use of alcohol and drugs while operating a state vehicle, the operation of a vehicle in violation of motor vehicle laws, operating a vehicle without proper seat restraints, and operating vehicles without receiving proper training for their use.

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

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--There are no cost related activities associated with this rule. The rule outlines acceptable use standards for state vehicles. There is the potential for unquantifiable savings resulting from fewer accidents.

❖LOCAL GOVERNMENTS: None--This rule does not apply to local governments. Only state agencies lease vehicles from the Division.

❖OTHER PERSONS: None--This rule does not apply to other persons. Only state agencies lease vehicles from the Division.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule does not apply to other persons. Only state agencies lease vehicles from the Division.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fleet Operations' rules regulate the management and use of state-owned motor vehicles. This rule does not have a fiscal impact on businesses. Raylene G. Ireland

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Steve Saltzgiver, 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 (DFO) shall be responsible for establishing requirements governing business and personal uses, including commute and travel standards, safety and loss prevention 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 officers as defined in Section 53-13-103 may be exempted. Law enforcement vehicles and drivers shall be tracked by DFO as exclusive use, for information gathering purposes.

(2) Other exceptions as defined by the 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 vehicle 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 extend 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.
 - (l) Advertising or bumper 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 than 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.

R27-3-16. Reimbursement for Use of Personal Vehicle for State Business.

- Reimbursements shall be in accordance with Rule R25-7-10.

R27-3. Vehicle Use Standards.

R27-3-1. Authority and Purpose.

- (1) This rule is established pursuant to Section 63A-9-401(1)(c)(ii) and Section 63A-9-401(1)(c)(viii), which authorize the Division of Fleet Operations (DFO) to establish the requirements for the use of state vehicles, including business and personal use practices, and commute standards.
 - (2) This rule defines the vehicle use standards for state employees while operating a state vehicle.

R27-3-2. Agency Contact.

- (1) Each agency, as defined in Subsection 63A-9-101(a),(b) and (c), shall appoint and designate, in writing, a main contact person from within the agency to act as a liaison between the Division of Fleet Operations and the agency.

R27-3-3. Agency Authorization of Drivers.

- (1) Agencies authorized to enter information into DFO's fleet information system shall, for each individual to whom the agency has granted the authority to operate a state vehicle, directly enter into DFO's fleet information system, the following information:
 - (a) Driver's name and date of birth;
 - (b) Driver license number;
 - (c) State that issued the driver license;
 - (d) Each Risk Management-approved driver training program(s) taken;
 - (e) Date each driver safety program(s) was completed;
 - (f) The type vehicle that each safety program is geared towards.
- (2) Agencies without authorization to enter information into DFO's fleet information system shall provide the information required in paragraph 1 to DFO for entry into DFO's fleet information system.
- (3) For the purposes of this rule, any individual whose fleet information system record does not have all the information required in paragraph 1 shall be deemed not to have the authority to drive state vehicles and shall not be allowed to drive either a monthly or a daily lease vehicle.

(4) To operate a state vehicle, individuals whose names have been entered into DFO's fleet information system as authorized drivers shall have:

(a) a valid driver license for the type and class of vehicle being operated;

(b) completed the driver safety course required by DFO and the Division of Risk Management for the type or class of vehicle being operated; and

(c) met the age restrictions imposed by DFO and the Division of Risk Management for the type or class of vehicle being operated.

(5) Agencies shall develop and establish procedures to ensure that any individual listed as an authorized driver is not allowed to operate a state vehicle when the individual:

(a) does not have a valid driver license for the type or class of vehicle being operated; or

(b) has not completed all training and/or safety programs required by either DFO or the Division of Risk Management for the type or class of vehicle being operated; or

(c) does not meet the age restrictions imposed by either DFO or the Division of Risk Management for the type or class of vehicle being operated.

(6) A driver license verification check shall be conducted on a regular basis in order to verify the status of the driver license of each individual whose name appears in the DFO fleet information system as an authorized driver.

(7) In the event that an authorized driver is found not to have a valid driver license, the agency shall be notified, in writing, of the results of the driver license verification check.

(8) Any individual who has been found not to have a valid driver license shall have his or her authority to operate a state vehicle immediately withdrawn.

(9) Any individual who has been found not to have a valid driver license shall not have the authority to operate a state vehicle reinstated until such time as the individual provides proof that his or her driver license is once again valid.

(10) Authorized drivers shall operate a state vehicle in accordance with the restrictions or limitations imposed upon their respective driver license.

(11) Agencies shall comply with the requirements set forth in Risk Management General Rules, R37-1-8 (3) to R37-1-8 (9).

R27-3-4. Authorized and Unauthorized Use of State Vehicles.

(1) State vehicles shall only be used for official state business.

(2) Except in cases where it is customary to travel out of state in order to perform an employee's regular employment duties and responsibilities, the use of a state vehicle outside the State of Utah shall require the approval of the director of the department that employs the individual.

(3) Unless otherwise authorized, the following are examples of the unauthorized use of a state vehicle:

(a) Transporting family, friends, pets, associates or other persons who are not state employees or are not serving the interests of the state.

(b) Transporting hitchhikers.

(c) Transporting acids, explosives, weapons, ammunition, hazardous materials, flammable materials. The transport of the above-referenced items or materials is deemed authorized when it is specifically related to employment duties.

(d) Extending the length of time that the state vehicle is in the operator's possession beyond the time needed to complete the official purposes of the trip.

(e) Operating or being in actual physical control of a state vehicle in violation of Subsection 41-6-44(2), (Driving under the influence of alcohol, drugs or with specified or unsafe blood alcohol concentration), Subsection 53-3-231, (Person under 21 may not operate a vehicle with detectable alcohol in body), or an ordinance that complies with the requirements of Subsection 41-6-43(1), (Local DUI and related ordinances and reckless driving ordinances).

(f) Operating a state vehicle for personal use as defined in R27-1-2(30). Generally, except for approved personal uses set forth in R27-3-5 and when necessary for the performance of employment duties, the use of a state vehicle for activities such as shopping, participating in sporting events, hunting, fishing, or any activity that is not included in the employee's job description, is not authorized.

(g) Using a state vehicle for personal convenience, such as when a personal vehicle is not operational.

(h) Pursuant to the provisions of R27-7-1 et. seq., the unauthorized use of a state vehicle may result in the suspension or revocation of state driving privileges.

R27-3-5. Personal Use Standards.

(1) Personal use of state vehicles is not allowed without the direct authorization of the Legislature. The following are circumstances where personal use of state vehicles are approved:

(a) Elected and appointed officials that receive a state vehicle as a part of their respective compensation package, and have been granted personal use privileges by state statute.

(b) Sworn law enforcement officers, as defined in Utah Code 53-13-103, whose agencies have received funding from the legislature for personal use of state vehicles.

(c) In an emergency, a state vehicle may be used as necessary to safeguard the life, health or safety of the driver or passenger.

(2) An employee or representative of the state spending 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 the following approved activities:

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

(b) Travel to grooming, medical, fitness or laundry facilities; and

(c) Travel to and from recreational activities, such as to theaters, parks, or to the home of friends or relatives, provided said employee or representative has received approval for such travel from his or her supervisor.

(d) Pursuant to the provisions of R27-7-1 et. seq., the unauthorized personal use of a state vehicle may result in the suspension or revocation of state driving privileges.

R27-3-6. Application for Commute Use.

(1) Each petitioning agency shall submit a completed and agency approved commute form (MP-2) to DFO.

(2) Approval for commute privileges must be obtained from the director of the requesting agency before the commute form is submitted to DFO for tracking and reporting purposes.

(3) Commute use is considered a taxable fringe benefit. All approved commute use drivers will be assessed the IRS daily rate while using a state vehicle for commute use.

(4) For each individual with commute use privileges, the employing agency shall, pursuant to Division of Finance Policy FIACCT 10-01.00, prepare an Employee Reimbursement/Earnings Request Form and enter the amount of the commute fringe benefit into the payroll system on a monthly basis.

R27-3-7. Criteria for Commute Privilege Approval.

(1) Commute privileges are generally considered appropriate under the following circumstances:

(a) 24-hour "On-Call." Where the agency clearly demonstrates 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. In the event that 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 Division of Fleet Operations. Approval for commute use under this subsection is effective for one (1) year only. A new application for commute use under this subsection must be submitted and approved annually for the commute use privilege to continue.

(b) Virtual office. Where an agency clearly demonstrates that 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) When the agency clearly demonstrates that 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 vehicle.

(d) When a vehicle is provided to appointed or elected government officials who are specifically allowed by law to have an assigned vehicle as part of their compensation package. Individuals using this criterion must cite the appropriate section of the Utah Code on the MP-2 form.

R27-3-8. Enforcement of Commute Use Standards.

(1) Agencies with drivers who have been granted commute privileges shall establish internal policies to enforce the commute use and personal use standards established in this rule. Agencies shall not adopt policies that are less stringent than the standards established in these rules.

(2) Commute use that is unauthorized shall result in the suspension or revocation the commute use privilege. Additional instances of unauthorized commute use may result in the suspension or revocation of the state driving privilege.

R27-3-9. Use Requirements for Monthly Lease Vehicles.

(1) Agencies that have requested, and received monthly lease options on state vehicles shall:

(a) Ensure that only authorized drivers whose names and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated, shall operate monthly lease vehicles.

(b) Report the correct odometer reading when refueling the vehicle. In the event that an incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(c) Return the vehicle in good repair and in clean condition at the completion of the replacement cycle period or when the vehicle has met the applicable mileage criterion for replacement, reassignment or reallocation.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(d) Return the vehicle unaltered and in conformance with the manufacturer's specifications.

(e) Pay the applicable insurance deductible in the event that monthly lease vehicle in its possession or control is involved in an accident.

(f) Not place advertising or bumper stickers on state vehicles without prior approval of DFO.

(2) The provisions of Rule R27-4-6 shall govern agencies when requesting a monthly lease.

R27-3-10. Use Requirements for Daily Motor Pool Vehicles.

(1) DFO offers state vehicles for use on a daily basis at an approved daily rental rate. Drivers of a state vehicle offered through the daily pool shall:

(a) Provide DFO with at least 24 hours notice when requesting vehicles such as 15 passenger vans, sports utility vehicles and wheelchair accessible vehicles. Agencies should be aware that while DFO will attempt to accommodate all requests for vehicles, the limited number of vehicles in the daily pool not only requires that reservations be granted on a first come, first served basis, but also places DFO in a position of being unable to guarantee vehicle availability in some cases, even where the requesting driver or agency provides at least 24 hours notice.

(b) Be an authorized driver whose name and all other information required by R27-3-3(1) have been entered into DFO's fleet information system, completed all the training and/or safety programs, and met the age restrictions for the type of vehicle being operated. In the event that any of the information required by R27-3-3(1) has not been entered in DFO's fleet information system, the rental vehicle will not be released.

(c) Read the handouts, provided by DFO, containing information regarding the safe and proper operation of the vehicle being leased.

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

(e) Report the correct odometer reading when refueling the vehicle at authorized refueling sites, and when the vehicle is returned. In the event that incorrect odometer reading is reported, agencies shall be assessed a fee whenever the agency fails to correct the mileage within three (3) business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was a blatant disregard of the vehicle's actual odometer reading at the time of refueling, a fee shall be assessed to the agency even though the agency corrected the error within three (3) days of the notification.

(f) Return vehicles with at least ¾ tank of fuel left. In the event that the vehicle has less than ¾ of a tank of fuel left, the driver shall, prior to returning the vehicle, refuel the vehicle. Agencies shall be assessed a fee for vehicles that are returned with less than ¾ of a tank of fuel.

(g) Return rental vehicles in good repair and in clean condition.

(i) Agencies shall be assessed a detailing fee for vehicles returned that are in need of extensive cleaning.

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

(h) Call to extend the reservation in the event that they need to keep rental vehicles longer than scheduled. Agencies shall be assessed a late fee, in addition to applicable daily rental fees, for vehicles that are not returned on time.

(i) Use their best efforts to return rented vehicles during regular office hours. Agencies may be assessed a late fee equal to one day's rental for vehicles that are not returned on time.

(j) Call the daily pool where they made reservations, at least one hour before the scheduled pick-up time, to cancel the reservation. Agencies shall be assessed a fee for any unused reservation that has not been canceled.

(k) Not place advertising or bumper stickers on state vehicles without prior approval from DFO.

(2) The vehicle shall be inspected upon its return. The agency shall either be held responsible for any damages not acknowledged prior to rental, or any applicable insurance deductibles associated with any repairs to the vehicle.

(3) Agencies are responsible for paying all applicable insurance deductibles whenever a vehicle operated by an authorized driver is involved in an accident.

(4) The DFO shall hold items left in daily rental vehicles for ten days. Items not retrieved within the ten-day period shall be turned over to the Surplus Property Office for sale or disposal.

R27-3-11. Daily Motor Pool Van, Four Wheel Drive, SUV and Wheel Chair Accessible Vehicle Lease Criteria.

(1) The standard state vehicle is a compact sedan, and shall be the vehicle type most commonly used when conducting state business.

(2) Requests for vehicles other than a compact sedan may be honored in instances where the agency and/or driver is able to identify a specific need.

(a) Requests for a sport utility vehicle (SUV) may be granted in the event that State business is being conducted in areas where off-road or underdeveloped road conditions exist. Neither adverse weather conditions nor the fact that state business is being conducted at the Utah State Surplus Property location in Draper, Ut., for the purposes of this section, are considered a specific need.

(b) Requests for a seven passenger van may be granted in the event that the driver is going to be transporting more than three authorized passengers.

(c) Requests for a fifteen (15) passenger van may be granted in the event that the driver is going to be transporting more than six authorized passengers. Under no circumstances shall the number of occupants exceed the maximum number recommended by the Division of Risk Management.

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

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

R27-3-12. Alcohol and Drugs.

(1) No authorized driver shall operate or be in actual physical control of a State vehicle in violation of subsection 41-6-44(2), any ordinance that complies with the requirements of subsection 41-6-43(1), or subsection 53-3-231.

(2) Any individual on the list of authorized drivers who is convicted of Driving Under the Influence of alcohol or drugs(DUI), Reckless Driving or any felony in which a motor vehicle is used,

either on-duty or off-duty, may have his or her state driving privileges withdrawn, suspended or revoked.

(3) No operator of a state vehicle shall transport alcohol or illegal drugs of any type in a State vehicle unless they are:

(a) Sworn peace officers, as defined in Section 53-13-102, in the process of investigating criminal activities;

(b) Employees of the Alcohol Beverage Control Commission conducting business within the guidelines of their daily operations.

(4) Except as provided in paragraph 3, above, any individual who uses a state vehicle for the transportation of alcohol or drugs may have his or her state driving privileges withdrawn, suspended or revoked.

R27-3-13. Violations of Motor Vehicle Laws.

(1) Authorized drivers shall obey all motor vehicle laws while operating a state vehicle.

(2) Any authorized driver who, while operating a state vehicle, receives a citation for violating a motor vehicle law shall immediately report the receipt of the citation to their respective supervisor. Failure to report the receipt of a citation may result in the withdrawal, suspension or revocation of State driving privileges.

(3) Any driver who receives a citation for violating a motor vehicle law while operating a state vehicle shall attend an additional Risk Management-approved mandatory defensive driver training program. The failure to attend the additional mandatory defensive driver training program shall result in the loss of state driving privileges.

(4) Any driver who receives a citation for a violation of motor vehicle laws, shall be personally responsible for paying fines associated with any and all citations. The failure to pay fines associated with citations for the violation of motor vehicle laws may result in the loss of state driving privileges.

R27-3-14. Seat Restraint Use.

(1) All operators and passengers in State vehicles shall wear seat belt restraints while in a moving vehicle.

(2) All children being transported in State vehicles shall be placed in proper safety restraints for their age and size as stated in Subsection 41-6-148(20)(2).

R27-3-15. Driver Training.

(1) Any individual shall, prior to the use of a state vehicle, complete all training required by DFO or the Division of Risk Management, including, but not limited to, the defensive driver training program offered through the Division of Risk Management.

(2) Each agency shall coordinate with the Division of Risk Management, specialty training for vehicles known to possess unique safety concerns, like 15 passenger vans and sport utility vehicles.

(3) Each employee shall have all training certifications required by DFO or the Division of Risk Management, and their respective agency renewed bi-annually.

(4) Agencies shall maintain a list of all employees who have completed the training courses required by DFO, Division of Risk Management and their respective agency.

(5) Employees operating state vehicles must have the correct license required for the vehicle they are operating and any special endorsements required in order to operate specialty vehicles.

R27-3-16. Smoking in State Vehicles.

(1) All multiple-user state vehicles are designated as "nonsmoking". Agencies shall be assessed fees for any damage incurred as a result of smoking in vehicles.

(2) Agencies that allow smoking in exclusive use vehicles shall be responsible for the cost of necessary repairs to, or refurbishment of, any vehicle in which smoking has been permitted to insure that the vehicle is suitable for reassignment, reallocation or sale when the vehicle reaches the applicable replacement criteria.

KEY: state vehicle use
October 17, 2000
53-13-102
63A-9-401(1)(c)(viii)



Agriculture and Food, Animal Industry

R58-9

Brand Inspection

NOTICE OF PROPOSED RULE

(Repeal)
 DAR FILE NO.: 24157
 FILED: 10/24/2001, 11:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the fees are established yearly through the legislative appropriations process.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-24-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is no cost or savings to the state budget associated with the repeal of this rule. Fees are set by the Legislature.

❖ **LOCAL GOVERNMENTS:** There is no cost or savings to local government associated with the repeal of this rule. Fees are set by the Legislature.

❖ **OTHER PERSONS:** The cost to the owner is the fee established by the department and approved through the legislative appropriations process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost. If the owner does not pay the fee he loses the right to own the brand or ear tag.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on any businesses. Fees are set by the Legislature.

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

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3087, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Terry Menlove at the above address, by phone at 801-538-7114 or 801-538-7166, by FAX at 801-538-7126 or 801-538-7169, or by Internet E-mail at agmain.mleetham@state.ut.us, agmain.tmenlove@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Cary Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.~~**R58-9. Brand Inspection.**~~~~**R58-9-1. Authority.**~~

~~— Promulgated Under Authority of Section 4-24-3.~~

~~**R58-9-2. Recording and Inspection Fees.**~~

~~— A. The Department shall charge and collect the following fees to be deposited into the Utah Livestock Brand and Anti theft Restricted Account fund.~~

- ~~— 1. \$50.00 for each new brand recording in each position.~~
- ~~— 2. \$50.00 for each new ear mark recording.~~
- ~~— 3. \$30.00 for each new transfer of a mark or brand.~~
- ~~— 4. \$30.00 for each brand renewal.~~
- ~~— 5. \$30.00 for each mark renewal.~~
- ~~— 6. \$ 5.00 for each certified copy of recordations (new brand eard.)~~

- ~~— 7. \$.50 per head brand inspection charge on all cattle.~~
- ~~— 8. \$.65 per head brand inspection charge on all horses.~~
- ~~— 9. \$ 3.00 minimum charge per certificate.~~
- ~~— 10. \$ 1.00 for each farm custom slaughter tag.~~

~~**B. Travel Permit for horses or Cattle.**~~

~~— All horses and mules moved outside the state must have a current brand inspection or travel permit. In lieu of a regular brand inspection the owner of the horse and/or mule may request a "travel permit," and upon payment of \$5.00 per head shall be issued a travel permit good for the calendar year in which it was issued. All cattle moved outside the state must have a current brand inspection or travel permit. In lieu of a regular brand inspection the owner of show cattle or rodeo stock may request a "travel permit," and upon payment of \$5.00 per head shall be issued a travel permit good for the calendar year in which it was issued.~~

~~**R58-9-3. Lifetime Transportation Permit.**~~

~~— Upon payment of a fifteen dollar (\$15.00) fee, a "Lifetime Transportation Permit" shall be issued to the owner of a horse or mule. This permit shall be valid as long as the same owner has ownership of said horse or mule. Should the owner sell or trade this~~

~~horse or mule, the purchaser or new owner may transfer the "Lifetime Transportation Permit" for a fee of ten dollars (\$10.00). Duplicate permit cards shall cost ten dollars (\$10.00).~~

KEY: livestock
1993

Notice of Continuation June 19, 1997
4-24-3]

Agriculture and Food, Plant Industry

R68-20

Utah Organic Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR File No.: 24158

FILED: 10/24/2001, 12:13

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 of organic foods within the State of Utah. The Organic Products Committee has changed some of the text to clarify the intent of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 4-2-2(i), and (j); Sections 4-3-2 and 4-4-2; Subsection 4-5-17(1); Sections 4-9-2, 4-11-3, and 4-12-3; Subsection 4-14-6(5); Section 4-16-3; and Subsections 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 is no cost or savings associated with the amendments to this rule. Fees are set through the legislative appropriations process. The amendments to this rule are merely clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost or savings associated with the amendments to this rule. Fees are set through the legislative appropriations process. The amendments to this rule are merely clarifications.

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 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Seth Winterton or Marolyn Leetham at the above address, by phone at 801-538-7141 or 801-538-7114, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.swintert@state.ut.us, agmain.mleetham@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Cary 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~~70 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~~70 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 certific[-]ate 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, distilling, 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 FFDC, 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]~~70 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]~~70 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) Exemptions and 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.~~

~~]~~ (1) Exemptions.

~~[(2)](a) A handling operation that is a retail food establishment or portion of a retail food establishment that handles organically produced agricultural products but does not process them is exempt from the requirements in this part. [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).]~~

(b) A production or handling operation that sells agricultural products as "organic" but whose gross agricultural income from organic sales totals \$5000.00 or less annually is exempt from certification, and from submitting an organic system plan for acceptance or approval, but must comply with the labeling requirements under R68-20-3(D). The product from such operations shall not be used as ingredients identified as organic in processed products produced by another handling operation.

(c) A handling operation or portion of a handling operation that only handles agricultural products that contain less than 70 percent organic ingredients by total weight of the finished product (excluding water and salt) is exempt from the requirements of this part, except:

(i) the provisions for prevention of contact of organic products with prohibited substances set forth in R68-20-7 with respect to any organically produced ingredients used in an agricultural product.

(ii) the labeling provisions of R68-20-3(D)

(iii) the record keeping provisions in R68-20-3(D)

(d) A handling operation or portion of a handling operation that only identifies organic ingredients on the information panel is exempt from the requirements from this part, except:

(i) The provisions for prevention of contact of organic products with prohibited substances set forth in R68-20-7 with respect to any organically produced ingredients used in an agricultural product.

(ii) the labeling provisions of R68-20-3(D) and

(iii) the record keeping provisions in R68-20-3(D)

(2) Exclusions.

(a) A handling operation or portion of a handling operation is excluded from the requirements of this part, except for the requirements for the prevention of commingling and contact with prohibited substances as set forth in 68-20-7 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", or "made with organic (specified ingredients or food group(s))" that

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

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

(b) A handling operation that is a retail operation that is a retail food establishment or portion of a retail food establishment that processed, on the premises of the retail food establishment, raw and ready to eat food from agricultural products that were previously labels as "100 percent organic", "organic", or "made with organic (specified ingredients or food group(s))" is excluded from the requirements of this part, except:

(i) The provisions for prevention of contact of organic products with prohibited substances set forth in R68-20-7 with respect to any organically produced ingredients used in an agricultural product.

(ii) the labeling provisions of R68-20-3(D) and

(iii) the record keeping provisions in R68-20-3(D)

(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) or (B)(3) 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~~ must 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.~~ The producer shall manage crop nutrients and soil fertility through rotations, cover crops, and application of plant and animal materials.

(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)~~ (c) 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~~4(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~~ the conditions for using the substance are documented in the organic system plan.

(6) ~~The producer or handler of an organic operation shall not use a pest, weed, or disease control substance produced through excluded methods. The producer must not use lumber treated with arsenate of other prohibited materials for new installations or replacement purposes in contact with soil or livestock.~~

(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~~ must be harvested from a designated area that has ~~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 in R68-2-5(E); 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) When an entire, district herd is converted to organic production, the producer may for the first 9 months of the year, provide a minimum of 80% feed that is organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements and provide feed in compliance with R68-20-5(E) for the final 3 months.

(iii) 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) (1) 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 indicate 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)(5)~~ 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.~~

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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, curing, distilling, 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 organically produced 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:

(a) in or on a processed agricultural product intended to be sold, labeled, or represented as "organic," [or "made with organic (specified ingredients)."] Pursuant to R68-20-6(F)(2)(b), if not commercially available in organic form.

(b) In or on a processed agricultural product intended to be sold, labeled or represented as "made with organic" (specified ingredients or food group(s)), pursuant to R68-20-6(F)(2)(c).

(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 or food group(s)) or in or on any ingredients labeled as organic":

~~(a) Ionizing radiation for any purpose;~~

~~(b)(a) An ingredient produced with excluded methods; or~~
~~(c)(b) 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]. Except that, nonorganic ingredients in products labeled "made with organic (specified ingredients or food groups(s))" are not subject to this requirement.~~

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

~~(iii)(ii) [Nontoxic, nonsynthetic controls, such as I] Lures and repellents using nonsynthetic or synthetic substances consistent with R68-20-7.~~

(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 consistent with the National List 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 organically produced agricultural product ~~[intended to be sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients)"; or ingredient labeled in accordance with R68-20-6(F) or this rule.~~

(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 organically produced products or ingredient placed in those containers unless, ~~[after use for conventional products, the]~~ reusable ~~[bin]bag~~ or container has been thoroughly cleaned and poses no risk of contact of the organically produced product or ingredient with the substance used. ~~[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]~~R68-20. ~~[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)]~~ The term "organic" may not be used in a product name to modify a non-organic ingredient in the product.

(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]~~8)(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).

(d) Livestock feeds produced in accordance with the requirements of R68-20 must be labeled in accordance with the requirements of R68-20-6(F)(7).

(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]~~ ingredients. ~~[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]organically produced, 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]~~ be organically produced, unless not commercially

available in organic form or shall be nonagricultural substances or non-organically produced agricultural products ~~[approved in]~~produced consistent with 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]~~organically produced, such product shall be labeled pursuant to R68-20-6(F)(4).

(c) Products sold, labeled, or represented as "made with organic (specified ingredients or food group(s))." Multi-ingredient agricultural products sold, labeled, or represented as "made with organic (specified ingredients or food group(s))" shall contain (by weight or fluid volume, excluding water and salt) at least ~~[50]~~70 percent organically produced agricultural products which are produced and handled pursuant to requirements in ~~[R68-20-4 and]~~ R68-20-~~[5]~~6. ~~[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,]~~ No ingredients may be produced using prohibited practices specified in R68-20-6(F)(f)(iv),(v), (vi), and (vii). If labeled as containing organically produced ingredients or food groups, such products shall be labeled pursuant to R68-20-6(F)(5).

(d) Products with less than ~~[50]~~70 percent organic ingredients. The organic ingredients in multi-ingredient agricultural product containing less than ~~[50]~~70 percent organically produced ingredients (by weight or fluid volume, excluding water and salt) shall be produced and handled pursuant to requirements in ~~[R68-20-4 and 5]~~R68-20-6. 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]~~70 percent organically produced ingredients may represent the organic nature of the product only as provided in R68-20-6(F)(6).

(e) Livestock Feed.

(i) A raw or processed livestock feed product sold, labeled, or represented as "100 percent organic" must contain (by weight or fluid volume, excluding salt and water) not less than 100 percent organically produced raw or processed agricultural product.

(ii) A raw or processed livestock feed product sold, labeled or represented as "organic" must be produced in conformance with R68-20-5(B) and (R68-20-6(E).

(f) All [ingredients identified] products labeled as "100 percent organic" or "organic" and 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]~~organically produced processing aids;

(v) Contain sulfites, nitrates, or nitrites added during the production or handling process; Except, that, wine containing added sulfites may be labeled "made with organic grapes".

(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 food group(s))," or that include organic ingredients shall be calculated by:

(i) Dividing the total net weight (excluding water and salt) of combined organic ingredients at formulation 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 organically 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]~~determined by the handler who affixes the label on the consumer package and verified by the certifying ~~[agent]~~agency of the handler. The handler may use the information provided by the certified operation in determining the percentage.

(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 products labeled "organic" the percentage of organic ingredients in the product; (the size of the percentage statement must not exceed one-half the size of the largest type size on the panel which the statement is displayed and must appear in its entirety in the same type size, style, and color without highlighting).

(iii) The term "organic" to identify the organic ingredients in multi-ingredient products labeled "100 percent organic";

(iv) The UDAF Organic Seal;

~~[(iii)]~~(v) The seal, logo, or other identifying mark USDA of the certifying agent which certified the production or handling operation producing the finished product and any other certifying ~~[agent]~~agency which certified production or handling operations producing raw organic product or organic ingredients used in the finished product~~[-];~~ ~~[p]~~Provided that the handler producing the finished product maintain records, pursuant to this [chapter]rule, 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.]For products labeled "organic", identify each organic ingredient in the ingredient statement with the word "organic", or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.~~

~~[(iii)](ii) 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 and may display the business address, internet address, or telephone number of the certifying agent in such label. [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 or food group(s))."

(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~~[-];~~

~~(A) "made with organic (specified ingredients)[-]; [p] 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 [the statement does not list more than three organically produced ingredients; or~~

~~(B) "made with organic (specified food group(s))". Provided, that the statement does not list more than three of the following food groups: beans, fish, fruits, grains, herbs, meats, nuts, oils, poultry, seeds, spices, sweeteners, and vegetables or processed milk products; and provided further, that all ingredients of each listed food group in the product must be organically produced; and~~

~~(C) Which appears in letters that do not exceed one-half the size of the largest type size on the panel and which appears in its entirety in the same type size, style, and color without highlighting.~~

~~(ii) The percentage of organic ingredients in the product. The size of the percentage statement must not exceed one-half the size of the largest type size on the panel on which the statement is displayed and must appear in its entirety in the same type, size, style and without highlighting.~~

~~(iii) The seal, logo, or other identifying mark of USDA, UDAF or 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.]In the ingredient statement, identify each organic ingredient with the word "organic" or with an asterisk or other reference mark which is defined below the ingredient statement or indicate the ingredient is organically produced. Water or salt included as ingredients cannot be identified as organic.~~

~~[(iii)](ii) 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. Except, that~~[+]~~the business address, internet 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]~~70 percent organic ingredients.

(a) ~~An [A] agricultural product[s] with less than [50]~~70 percent organically produced ingredients ~~[shall]~~may only identify the organic content of the product by:

~~(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." [Identifying each organically produced ingredient with the word "organic", or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced, and~~

~~(ii) If the organically produced ingredients are identified in the ingredient statement, displaying the products percentage of organic contents on the information panel.~~

(b) Agricultural products with less than ~~[50]~~70 percent organically produced ingredients shall not display:

(i) The UDAF Organic Seal nor

~~(ii) Any certifying agent's seal, logo, or other identifying mark which represents organic certification of a product or product ingredients.~~

~~(7) Labeling of livestock feed.~~

~~(a) Livestock feed products described in R68-20-6(F)(2)(e)(I) and (e)(ii) may display on any package panel the following terms:~~

~~(i) The statement "100 percent organic" or "organic" as applicable, to modify the name of the feed product.~~

~~(ii) The UDAF seal~~

~~(iii) The seal, logo, or other identifying mark or USDA or the certifying agent which certified the production or handling operation producing the raw or processed organic ingredients used in the finished product, provided, that such seals or marks are not displayed more prominently than the UDAF seal.~~

~~(iv) The word "organic" or an asterisk or other reference mark which is defined on the package to identify ingredients that are organically produced. Water or salt included as ingredients cannot be identified as organic.~~

~~(b) Livestock feed products described in R68-20-6(F)(2)(e)(I) and (e)(ii) shall:~~

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

(ii) Comply with other UDAF or Federal Agency feed labeling requirements as applicable.

~~(8)~~⁽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 or food group(s))."

(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 USDA 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,~~ ^(b) 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]~~^(c) in accordance with any shipping container labeling requirements of the foreign country of destination or the container labeling specifications of a foreign contract buyer, provided further that the shipping containers and shipping documents accompanying such organic product ~~[be]~~^(c) are clearly marked "for export only," and provided further that proof of such container marking and export shall be maintained by the handler, ~~[consistent]~~^(c) in accordance with record keeping requirements for exempt and excluded operations under R68-20-3(B).

~~(8)~~⁽⁹⁾ 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] in other than packaged form may use the term "100 percent organic" or "organic" as applicable, to modify the name of the product in retail display, labeling, and display containers; Provided, that the term, "organic" is used to identify the organic ingredients listed in the ingredient statement. [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) If the product is prepared in a certified facility, [F] the retail display, labeling, and display containers may use:~~

~~(i) The UDAF Organic Seal;~~

~~(ii) The seal, logo, or other identifying mark of USDA or 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)~~⁽¹⁰⁾ 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 or food group(s))."

~~(a) [Retail displays, display containers, and market information of a] Agricultural products containing between [50]70 and 95 percent organically produced ingredients may use the phrase, "made with organic (specified ingredients or food group(s)), [provided that such products have been assembled at a manufacturing facility certified in accordance with the requirements of this chapter, and:] to modify the name of the product in retail display, labeling, and display containers.~~

~~(i) Such statement [does] shall not list more than three organic ingredients or food groups, and~~

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

~~(b) If prepared in a certified facility, [S] such agricultural products labeled as "made with organic (specified ingredients or food group(s))" in retail displays, display containers, and market information may display the certifying agent's seal, logo, or other identifying mark.~~

~~(10)~~⁽¹¹⁾ 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 or USDA Organic Seal or any certifying agent's seal or other identifying mark which represents ~~[that the production or handling operation]~~⁽ⁱ⁾ the exempt or excluded operation as a certified organic operation, or

(ii) Be represented as a certified organic product or certified organic ingredient 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)~~⁽¹²⁾ UDAF Organic Seal.

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

~~(13) The USDA seal may be used in accordance to 7 CFR, Part 205, National Organic Program.~~

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~~ demisters.

(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 - narrow range oils 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)~~g 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. Provided that~~(c)~~copper-based materials ~~shall~~must be

~~managed~~used in a ~~way~~manner that ~~prevents excessive~~ minimizes 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;]~~must be used in a manner that minimizes copper accumulation in the soil.

(d) Hydrogen peroxide;

(e) Lime sulfur

(f) Oils, horticultural, narrow range oils 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.

(i) Streptomycin, for fire blight control in apples and pears only.

(j) Tetracycline (oxytetracycline calcium complex) for fire blight control only.

(k) As snail or slug bait - none

(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~~[-];~~

(e) Elemental Sulfur

(f) Magnesium sulfate-allowed with a documented soil deficiency;

(i) Soluble boron products;

(ii) Sulfates, carbonates, oxides, or silicates of zinc, iron, ~~magnesium~~copper, 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 nonsynthetic substances or~~a~~ synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such ~~synthetic~~ substances. ~~[-]~~

(a) 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.

(7) Potassium chloride - unless derived from a mined source and applied in a manner that minimizes chloride accumulation in the soil.

(8) Sodium Nitrate - unless use is restricted to no more than 20% of the crops total nitrogen requirement.

(E) Synthetic substances allowed for use in organic livestock production in accordance with any restrictions specified in this chapter and ~~chapters~~ in 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) Oxytocin use in post parturition therapeutic applications.

~~(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; and must not be used during the lactation period of breeding stock.

(l) Phosphoric acid - allowed as an equipment cleaner; provided that, no direct contact with organically managed livestock or land occurs.

~~(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~~ used for enrichment or fortification when FDA approved 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.~~ As synthetic inert ingredients as classified by the EPA for use with nonsynthetic substances or a synthetic substance listed in this section and used as an active ingredient in accordance with any limitations on the use of such substances.

(d) EPA List 4 inerts of minimum concern.

(F) Nonsynthetic substances prohibited for use in organic livestock production:

(1) Livestock slaughter by-products, including blood, meat, and bone meal as feed for all mammals and poultry.

(2) strychnine

(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.

(3) Each notification noncompliance, rejection of mediation, noncompliance resolution, proposed suspension or revocation and suspension or revocation issued pursuant to R68-20-9(D) and each response to such notification must be sent to the recipient's place of business via a delivery service which provides dated return receipts.

(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 while final resolution of either is pending.

(7) ~~Eligibility.~~

(a) A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to UDAF for reinstatement of its certification. The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with this rule.

(b) A certified operation or a person responsibly connected with an operation whose certification has been revoked will ~~not~~ be ineligible to receive certification for a period of not more than 5 years following the date of such revocation[.]. ~~Except that, as determined by~~ UDAF may, when in the best interest of the certification program, reduce or eliminate the period of ineligibility.

(8) Violations of the rule. In addition to suspension or revocation, any certified operation that:

(a) Knowingly sells or labels a product as organic, except in accordance to the rule, shall be subject to a civil penalty of not more than \$5,000.00 pe violation.

(b) Makes a false statement to UDAF or a certifying agent shall be subject to a civil penalty of not more than \$5,000.00 per violation.

(E) Hearing.

Any dispute with respect to denial or certification or 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. Inspection and testing of agricultural products to be sold or labeled "organic".~~

(1) All agricultural products that are to be sold, labeled, or represented as "100 percent organic", "organic", or made with organic (specified ingredients or food group(s)) shall be made accessible by certified organic production or handling operations for examination by UDAF or the certifying agent.

(2) UDAF or the certifying agent may require pre-harvest or post-harvest testing of any agricultural product to be sold "100 percent organic", "organic", or "made with organic ("specified ingredients or food group(s)) when there is a reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods. Such test may be conducted by UDAF or certifying agency at the expense of the handler and/or operator.

(3) An inspector representing UDAF or certifying agent must perform the pre-harvest tissue test sample collection pursuant to R68-20-9(F)(2). Sample integrity must be maintained throughout the chain of custody, and residue testing must be made in accordance with methods described in the most current edition of the Official Methods of Analysis of the AOAC, international or other current applicable validated methodology determining the presence of contaminants in agricultural products.

(4) Results of all analyses and test performed under this section:

(a) Shall be promptly provided to UDAF by the applicable certifying party that requested the testing; and

(b) Will be available for public access, unless the testing is part of an ongoing compliance investigation.

(5) If test results indicate a specific agricultural product contains pesticide residue or environmental contaminants that exceed the food and Drug Administration's or the Environmental Protection Agency's regulatory tolerances, the certifying agent must promptly report such data to the Federal Health Agency whose regulatory tolerance or action level has been exceeded.

(G) Exclusion from organic sale.

(1) When residue testing detects prohibited substance at levels that are greater than 5 percent of the environmental Protection Agency's tolerance for the specific residue detected or unavoidable residual environmental contamination, the agricultural product must not be sold, labeled, or represented as organically produced. USDA, UDAF, or certifying agent may conduct an investigation of the certified operation to determine the cause of the prohibited substance.

([G]H) 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~~ certification agencies. Annual registration is required for all ~~accreditation~~ certification 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

October 17, 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)

Alcoholic Beverage Control, Administration **R81-1-6** Violation Schedule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24188

FILED: 11/01/2001, 16:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To give the Alcohol Beverage Control (ABC) Commission more discretion when adjudicating licensee violations of statutes and commission rules relating to alcoholic beverages.

SUMMARY OF THE RULE OR CHANGE: As presently written, the violation schedule has mandatory license revocation provisions for licensees who have repeatedly violated certain

statutes and commission rules within a three-year period. The amendment eliminates the mandatory revocation provisions and replaces them with a range of penalty options. It also establishes a minimum fine for certain violations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 32A, Chapters 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: None--The process for adjudicating licensee violations does not change in any way that will effect the budget in either costs or savings.

❖LOCAL GOVERNMENTS: None--Licensee violations are handled administratively by the Department of Alcoholic Beverage Control and the ABC Commission. Local governments may take additional actions against the licensee, but not as a result of state sanctions.

❖OTHER PERSONS: The suspension or revocation of an establishment's alcoholic beverage license may effect the general public to the extent they utilize the services of the licensee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment provides a licensee who has violated certain statutes or commission rules the opportunity to pay a fine and/or suffer a license suspension instead of mandatorily losing their alcoholic beverage license altogether.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Licensees who violate statutes and commission rules are usually impacted financially by either paying a fine or losing revenue due to a license suspension. In the past, the violation schedule mandated that the repeated violation of certain laws and rules called for the revocation of the alcoholic beverage license. This effectively prohibited the ABC Commission from considering aggravating and mitigating circumstances in determining an appropriate penalty. This amendment gives the Commission more discretion in considering violations on a case-by-case basis.

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

ALCOHOLIC BEVERAGE CONTROL
ADMINISTRATION
1625 S 900 W
SALT LAKE CITY UT 84104-1630, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay or Earl Dorius at the above address, by phone at 801-977-6800 or 801-977-6800, by FAX at 801-977-6889 or 801-977-6889, or by Internet E-mail at abcmain.smackay@state.ut.us, abcmain.edorius@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Kenneth F Wynn, Director

R81. Alcoholic Beverage Control, Administration.

R81-1. Scope of Definitions, and General Provisions.

R81-1-6. Violation Schedule.

(1) Authority. This rule is pursuant to Sections 32A-1-107(1)(c)(i), 32A-1-107(1)(e), 32A-1-107(4)(b), 32A-1-119(6) and (7). These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their employees and agents who violate statutes and commission rules relating to alcoholic beverages. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. Violations are adjudicated under procedures contained in Section 32A-1-119 and disciplinary hearing Section R81-1-7.

(2) General Purpose. This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in rendering its final decisions as to appropriate penalties for violations.

(3) Application of Rule.

(a) This rule governs violations committed by all commission licensees and permittees and their employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32A-7-106.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee from holding the license. These are fundamental licensing requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act, Title 63, Chapter 46b or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension

of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded encouraged, or intentionally aided another to engage in the violation.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee to make payment on or before that date shall result in the immediate suspension of the license or permit until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

(4) Penalty Schedule. The department and commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or department compliance officer(s) to ~~[a three day suspension]~~ revocation of the license or permit and/or up to a ~~[\$300]~~ \$25,000 fine. ~~[However, if the licensee or permittee commits more than three minor violations regardless of type, the commission may suspend the license or permit for a period exceeding three days, may revoke the license or permit, and/or impose a fine not to exceed \$25,000.]~~ A record of any letter of admonishment shall be included in the licensee's or permittee's violation file at the department to establish a violation history.

(i) First occurrence involving a minor violation: the penalty shall range from a verbal warning from law enforcement or department compliance officer(s), which is documented to a letter of admonishment. Law enforcement or department compliance officer(s) shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of the same type of minor violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a \$100 to \$500 fine.

(iii) Third occurrence of the same type of minor violation: one to five day suspension of the license or permit and/or a \$100 to \$500 fine.

(iv) More than three minor violations regardless of type: six day suspension to revocation of the license or permit and/or ~~[a fine not to exceed \$25,000]~~ a \$500 to \$25,000 fine.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the monetary penalties for each of the charges in their respective categories. If other minor violations are discovered during the same investigation, a verbal warning shall be given for each violation on a first occurrence. If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. Although the gravity of the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action. Penalty range: Written investigation report from law enforcement or

department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a letter of admonishment to ~~[a 20 day suspension]~~ revocation of the license or permit ~~[In lieu of or in addition to a suspension, a fine ranging from \$300 to \$2000 may be assessed. However, if the licensee or permittee commits more than three moderate violations regardless of type, the commission may suspend the license or permit for a period exceeding 20 days, may revoke the license or permit, and/or impose a fine not to exceed \$25,000]~~ and/or up to a \$25,000 fine.

(i) First occurrence involving a moderate violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a letter of admonishment to a \$1000 fine.

(ii) Second occurrence of the same type of moderate violation: three to ten day suspension of the license or permit and/or a \$500 to \$1000 fine.

(iii) Third occurrence of the same type of moderate violation: ten to 20 day suspension of the license or permit and/or a \$1000 to \$2000 fine.

(iv) More than three moderate violations regardless of type: ~~[21]~~ 15 day suspension to revocation of the license or permit and/or ~~[a fine not to exceed \$25,000]~~ a \$2000 to \$25,000 fine.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(vi) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health and welfare, and involve minors. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a five day suspension to revocation of the license or permit ~~[In lieu of or in addition to a suspension, a fine ranging from \$500 to \$9000 may be assessed. However, if the licensee or permittee commits more than two serious violations regardless of type, the commission shall revoke the license or permit]~~ and/or up to a \$25,000 fine.

(i) First occurrence involving a serious violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a five to 30 day suspension of the license or permit and/or a \$500 to \$3000 fine.

(ii) Second occurrence of the same type of serious violation: ten to 90 day suspension of the license or permit and/or a \$1000 to \$9000 fine.

(iii) ~~[Third occurrence]~~ More than two occurrences of any type of serious violation: ~~[revoke]~~ 15 day suspension to revocation of the license or permit and/or a \$9000 to \$25,000 fine.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(v) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or

may involve fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department and military installations. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a ten day suspension to revocation of the license or permit and/or ~~[a fine not to exceed \$25,000]~~ up to a \$25,000 fine. ~~[However, if the licensee or permittee commits more than one grave violation regardless of type, the commission shall revoke the license and permit.]~~

(i) First occurrence involving a grave violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a ten day suspension to revocation of the license or permit and/or a \$1000 ~~[fine to the maximum fine authorized by law]~~ to \$25,000 fine.

(ii) ~~[Second]~~ More than one occurrence of any type of grave violation: ~~[revoke]~~ a fifteen day suspension to revocation of the license or permit.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(iv) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this section of the rule.

TABLE

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days	Revoke License
Minor				
1st	X X			
2nd		100 to 500		
3rd		100 to 500	1 to 5	
Over 3		<u>500</u> to 25,000	6 to	X
Moderate				
1st	X	to 1,000		
2nd		500 to 1,000	3 to 10	
3rd		1,000 to 2,000	10 to 20	
Over 3		<u>2,000</u> to 25,000	[21] <u>15</u> to	X
Serious				
1st		500 to 3,000	5 to 30	
2nd		1,000 to 9,000	10 to 90	
[3rd] <u>Over 2</u>		<u>9,000</u> to 25,000	<u>15</u> to	X
Grave				
1st		1,000 to 25,000	10 to	X
[2nd] <u>Over 1</u>			<u>15</u> to	X

(5) Aggravating and Mitigating Circumstances. The commission and presiding officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances. Examples of mitigating circumstances are: no prior violation history, good faith effort to prevent a violation, existence of written policies governing employee conduct, and extraordinary cooperation in the violation investigation that shows the licensee or permittee accepts responsibility. Examples of aggravating circumstances are:

prior warnings about compliance problems, prior violation history, lack of written policies governing employee conduct, multiple violations during the course of the investigation, efforts to conceal a violation, intentional nature of the violation, the violation involved more than one patron or employee, the violation involved a minor and, if so, the age of the minor, and whether the violation resulted in injury or death.

(6) Violation Grid. A violation grid describing each violation of the alcoholic beverage control laws, the statutory and rule reference, and the degree of seriousness of each violation is available for public inspection in the department's administrative office. A copy will be provided upon request at reproduction cost. It is entitled "Alcoholic Beverage Control Commission Violation Grid" and is incorporated by reference as part of this rule.

KEY: alcoholic beverages
October 2, 2000

Notice of Continuation January 10, 1997
32A-1-107

- 32A-1-119(5)(c)
- 32A-3-103(1)(a)
- 32A-4-103(1)(a)
- 32A-4-203(1)(a)
- 32A-5-103(3)(c)
- 32A-6-103(2)(a)
- 32A-7-103(2)(a)
- 32A-8-103(1)(a)
- 32A-9-103(1)(a)
- 32A-10-203(1)(a)
- 32A-11-103(1)(a)



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.: 24181
FILED: 11/01/2001, 13:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to correct a rule citation. The Division also needs to delete electrologist instructors, esthetician instructors, and nail technology instructors from the Renewal Date table as these instructor licenses are a one-time certificate that does not expire; therefore, they do not need to renew the instructor license. The Division is also deleting Section R156-1-204 with respect to Board and Committee meetings open to the public and notice of Board meetings. The Division has determined that the requirements set forth in the Open and Public Meetings Act adequately covers the type of notice needed with respect to its Board and Committee meetings. The

section being deleted requires the Division to comply with requirements that are beyond the Open and Public Meetings statute.

SUMMARY OF THE RULE OR CHANGE: Section R156-1-204 regarding Board/Committee meetings open to the public and notice of board meetings is being deleted in its entirety. Subsection R156-1-206(2) is being corrected. In Section R156-1-308a, the renewal dates listed for electrologist instructors, esthetician instructors, and nail technology instructors are being deleted.

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, less than \$75, to reprint this rule once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖LOCAL GOVERNMENTS: Proposed rule does not apply to local governments.

❖OTHER PERSONS: The Division has determined that there will be no costs or savings associated with this rule filing since a renewal fee was never established for the instructors that were incorrectly listed in the renewal table. Also, how the Division provides notice regarding its Board and Committee meetings will not incur costs or savings to anyone.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division has determined that there are no costs associated with this rule as identified above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of these amendments is to correct an improper reference and to remove unnecessary and duplicative provisions. Therefore, this amendment will have no impact on businesses. Ted Boyer, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Laura Poe at the above address, by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at lpoe@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rules of the Division of Occupational and Professional Licensing.

~~**R156-1-204. Board and Committee Meetings Open to Public Notice of Board Meetings.**~~

~~—(1) Board and committee meetings shall be open to the public except when closed in accordance with Section 52-4-5.~~

~~—(2) The notice of board and committee meetings required by Section 52-4-6 shall be provided as follows:~~

~~—(a) Not later than the last working day of January of each year, the division shall publish a list of its anticipated board and committee monthly meeting schedule in the State Bulletin.~~

~~—(b) Not later than the last working day of each calendar month the division shall post in a prominent and appropriate place within the building occupied by the division, a calendar containing the date, time, and place of all board and committee meetings scheduled for the next succeeding month. In addition, the division shall provide a copy to the media.~~

~~—(c) Not later than the close of business of the business day preceding a meeting of any board or committee, the division shall post in a prominent and appropriate place within the building occupied by the division, a copy of the agenda for the board or committee meeting.~~

R156-1-206. Emergency Adjudicative Proceeding Review Committees - Appointment - Terms - Vacancies - Removal - Quorum - Chairman and Secretary - Open and Public Meetings Act - Utah Administrative Procedures Act - Per Diem and Expenses.

(1) The chairman of the board for the profession of the person against whom an action is proposed may appoint the members of emergency review committees on a case-by-case or period-of-time basis.

(2) With the exception of the appointment and removal of members and filling of vacancies by the chairman of a board, emergency review committees, committees shall serve in accordance with Subsections R156-1-~~204(3) through (13)~~205(7), and (9) through (12).

R156-1-308a. Renewal Dates.

(1) The following standard two-renewal cycle 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
(2) Advanced Practice Registered Nurse	January 31	even years
(3) Animal Euthanasia Agency	May 31	odd years
(4) Alternate Dispute Resolution Provdr	September 30	even years
(5) Analytical Laboratory	May 31	odd years
(6) Architect	May 31	even years
(7) Athlete Agent	September 30	even years
(8) Audiologist	May 31	odd years
(9) Branch Pharmacy	May 31	odd years
(10) Building Inspector	July 31	odd years
(11) Burglar Alarm Security	July 31	even years
(12) C.P.A. Firm	September 30	even years
(13) Certified Shorthand Reporter	May 31	even years
(14) Certified Dietitian	September 30	even years

(15)	Certified Nurse Midwife	January 31	even years	(7[3]0)	Physician and Surgeon	January 31	even years
(16)	Certified Public Accountant	September 30	even years	(7[4]1)	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	(7[5]2)	Podiatric Physician	September 30	even years
(19)	Chiropractic Physician	May 31	even years	(7[6]3)	Pre Need Funeral Arrangement Provider	May 31	even years
(20)	Clinical Social Worker	September 30	even years	(7[7]4)	Pre Need Funeral Arrangement Sales Agent	May 31	even years
(21)	Construction Trades Instructor	July 31	odd years	(7[8]5)	Private Probation Provider	May 31	odd years
(22)	Contractor	July 31	odd years	(7[9]6)	Professional Counselor	September 30	even years
(23)	Controlled Substance Precursor Distributor	May 31	odd years	([80]77)	Professional Engineer	December 31	even years
(24)	Controlled Substance Precursor Purchaser	May 31	odd years	([81]78)	Professional Land Surveyor	December 31	even years
(25)	Cosmetologist/Barber	September 30	odd years	([82]79)	Professional Structural Engineer	December 31	even years
(26)	Cosmetology/Barber School	September 30	odd years	(8[3]0)	Psychologist	September 30	even years
(27)	Deception Detection	July 31	even years	(8[4]1)	Radiology Practical Technician	May 31	odd years
(28)	Dental Hygienist	May 31	even years	(8[5]2)	Radiology Technologist	May 31	odd years
(29)	Dentist	May 31	even years	(8[6]3)	Recreational Therapy Technician, Specialist, Master Specialist	May 31	odd years
(30)	Electrician Apprentice, Journeyman, Master, Residential Journeyman, Residential Master	July 31	even years	(8[7]4)	Registered Nurse	January 31	odd years
(31)	Electrologist	September 30	odd years	(8[8]5)	Respiratory Care Practitioner	September 30	even years
(42)	Electrologist Instructor	September 30	odd years	(8[9]6)	Retail Pharmacy	May 31	odd years
(3[3]2)	Electrology School	September 30	odd years	([90]87)	Security Personnel	July 31	even years
(3[4]3)	Environmental Health Scientist	May 31	odd years	([91]88)	Social Service Worker	September 30	even years
(3[5]4)	Esthetician	September 30	odd years	([92]89)	Speech-Language Pathologist	May 31	odd years
(36)	Esthetician Instructor	September 30	odd years	([93]90)	Veterinarian	September 30	even years
(3[7]5)	Esthetics School	September 30	odd years	(9[4]1)	Veterinary Pharmaceutical Outlet	May 31	odd years
(3[8]6)	Factory Built Housing Dealer	September 30	even years				
(3[9]7)	Funeral Service Director	May 31	even years				
([40]38)	Funeral Service Establishment	May 31	even years				
([41]39)	Genetic Counselor	September 30	even years				
(4[2]0)	Health Care Assistant	November 30	even years				
(4[3]1)	Health Facility Administrator	May 31	odd years				
(4[4]2)	Hearing Instrument Specialist	September 30	even years				
(4[5]3)	Hospital Pharmacy	May 31	odd years				
(4[6]4)	Institutional Pharmacy	May 31	odd years				
(4[7]5)	Landscape Architect	May 31	even years				
(4[8]6)	Licensed Practical Nurse	January 31	even years				
(4[9]7)	Licensed Substance Abuse Counselor	May 31	odd years				
([50]48)	Marriage and Family Therapist	September 30	even years				
([51]49)	Massage Apprentice, Therapist	May 31	odd years				
(5[2]0)	Master Esthetician	September 30	odd years				
(5[3]1)	Nail Technologist	September 30	odd years				
(54)	Nail Technology Instructor	September 30	odd years				
(5[5]2)	Nail Technology School	September 30	odd years				
(5[6]3)	Naturopath/Naturopathic Physician	May 31	even years				
(5[7]4)	Nuclear Pharmacy	May 31	odd years				
(5[8]5)	Occupational Therapist	May 31	odd years				
(5[9]6)	Occupational Therapy Assistant	May 31	odd years				
([60]57)	Optometrist	September 30	even years				
([61]58)	Osteopathic Physician and Surgeon	May 31	even years				
([62]59)	Out of State Mail Order Pharmacy	May 31	odd years				
(6[3]0)	Pharmaceutical Administration Facility	May 31	odd years				
(6[4]1)	Pharmaceutical Dog Trainer	May 31	odd years				
(6[5]2)	Pharmaceutical Manufacturer	May 31	odd years				
(6[6]3)	Pharmaceutical Researcher	May 31	odd years				
(6[7]4)	Pharmaceutical Teaching Organization	May 31	odd years				
(6[8]5)	Pharmaceutical Wholesaler/Distributor	May 31	odd years				
(6[9]6)	Pharmacist	May 31	odd years				
([70]67)	Pharmacy Technician	May 31	odd years				
([71]68)	Physical Therapist	May 31	odd years				
([72]69)	Physician Assistant	May 31	even years				

(2) The following non-standard renewal terms and renewal or extension cycles are established by license classification in accordance with Subsection 58-1-308(1) and in accordance with specific requirements of the license:

(a) Certified Marriage and Family Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(b) Certified Professional Counselor Intern licenses shall be issued for a three year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date the minimum supervised experience requirement has been completed.

(c) Funeral Service Apprentice licenses shall be issued for a two year term and may be extended for an additional two year term if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure.

(d) Professional Employer Organization licenses expire every year on September 30.

(e) Psychology Resident licenses shall be issued for a two year term and may be extended if the licensee presents satisfactory evidence to the division and the board that reasonable progress is being made toward passing the qualifying examinations or is otherwise on a course reasonably expected to lead to licensure; but the period of the extension may not exceed two years past the date

the minimum supervised experience requirement has been completed.

KEY: diversion programs, licensing, occupational licensing
[September 4,]2001
Notice of Continuation June 2, 1997
58-1-106(1)
58-1-308

▼ ————— ▼

Commerce, Occupational and Professional Licensing

R156-54

Radiology Technologist and Radiology Practical Technician Licensing Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24159

FILED: 10/25/2001, 09:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to make changes in the examinations and scores required for licensure.

SUMMARY OF THE RULE OR CHANGE: In Section R156-54-302a, deleted the minimum passing score of 75% on the American Registry of Radiological Technologists (ARRT) examinations in radiology technology and added that the minimum passing score is as recommended by ARRT. In Section R156-54-302b, added that a radiology practical technician may also take the ARRT Limited Scope of Practice examination in bone densitometry. In both Sections R156-54-302a and 302b, deleted the requirement to take and pass the Utah Law and Rule examination for radiology technologist and radiology practical technician applicants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-54-1, 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, approximately \$50, to reprint the rule once these proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** Proposed rule does not apply to local governments.

❖ **OTHER PERSONS:** Applicants for licensure as either a radiology technologist or a radiology practical technician will see a savings of approximately \$55 per person because the Utah Law/Rule Examination is being eliminated. The Division is unable to determine how many applicants might apply for licensure in Utah in the future and therefore, no aggregate savings are available. Radiology Practical Technician

licensees who choose to add the bone densitometry limited scope of practice to their existing license will have to pay \$110 to take the examination. The Division is unable to determine how many of the existing licensees may want to add this additional scope of practice to their license. New applicants for licensure as a radiology practical technician will continue to pay \$110 for any combination of one or more of the seven limited scope examinations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants for licensure as either a radiology technologist or a radiology practical technician will see a savings of approximately \$55 per person because the Utah Law/Rule Examination is being eliminated. Radiology Practical Technician licensees who choose to add the bone densitometry limited scope of practice to their existing license will have to pay \$110 to take the examination.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change eliminating the law and rules exam and adding a bone densitometry limited scope exam could impact businesses in the following manner: (1) the test administrator who currently gives the law and rules exam might have a negative business impact from the loss of the fee for that exam. The amount of the loss is difficult to estimate, but it depends on the number of new applicants each year. The test administrator could benefit from the addition of the bone densitometry exam and the fee charged for this exam. There are currently 1,054 active radiology practical technicians, but since the bone densitometry test is optional, it is difficult to know how many current licensees will take the exam, and thus difficult to estimate the amount of the positive business impact; (2) clinics and hospitals that normally pass the exam costs for their radiology technicians could incur the additional expense of the bone densitometry exam. The exam is optional; however, and it would be difficult to estimate the amount of the business impact; and (3) clinics and hospitals might pass the expense of the bone densitometry exams to their patients, some of whom might in turn pass the expense to their insurers. Again, it is difficult to estimate the amount of the business impact to insurance companies. Ted Boyer, Executive Director

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

COMMERCE
 OCCUPATIONAL AND PROFESSIONAL LICENSING
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY UT 84111-2316, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lynn Bernhard at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at lbernar@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing.
R156-54. Radiology Technologist and Radiology Practical Technician Licensing Act Rules.
R156-54-302a. Examination Requirements - Radiology Technologist.

In accordance with Subsection 58-54-5(2)(b), the examination requirement for licensure as a radiology technologist requires passing:

(1) one of the following ARRT Examinations in Radiology Technology with a minimum passing score ~~[of 75%]~~ as recommended by ARRT:

- (a) Radiography;
- (b) Nuclear Medicine Technology;
- (c) Radiation Therapy Technology; ~~[or]~~ and

(2) the Nuclear Medicine Technology Certification Board Examination with a passing score as established by the Nuclear Medicine Technology Certification Board; ~~and~~

~~—(3) the Utah Radiology Technologist and Radiology Practical Technician Law and Rule Examination with a minimum passing score of 75%.~~

R156-54-302b. Examination Requirements - Radiology Practical Technician.

In accordance with Subsection 58-54-5(3), the examination requirement for licensure as a radiology practical technician requires passing:

(1) the ARRT Limited Scope of Practice in Radiography Examination with a passing score as recommended by ARRT for the following:

- (a) core; and
- (b) one or more of the following sections:
 - (i) chest;
 - (ii) extremities;
 - (iii) skull/sinuses;
 - (iv) spine; ~~and~~
 - (v) podiatric; and
 - (vi) bone densitometry.

~~—(2) the Utah Radiology Technologist and Radiology Practical Technician Law and Rule Examination with a minimum passing score of 75%.~~

KEY: licensing, radiology technologist^[±], radiology practical technician^[±]

~~[April 3, 2001~~

Notice of Continuation May 12, 1997

58-54-1

58-1-106(1)

58-1-202(1)



**Commerce, Occupational and
Professional Licensing
R156-55a
Utah Construction Trades Licensing Act
Rules**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 24151

FILED: 10/22/2001, 13:22

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needed to make the following changes to the rule: (1) make technical corrections to parts of the rule; (2) clarify the experience needed for licensure; (3) clarify licensure requirements for trades instructors; and (4) add cabling and horizontal boring for installation of conduit or cables for communication systems. Cities and counties throughout Utah are very concerned about the expertise of the companies digging up their streets and boring into the ground where utilities pipes and cables are buried to install communications conduit and cables. While some of the companies are licensed in Utah, others are not. The current rule was written years ago when the only ones installing their systems underground were utility companies. Since then cable television and fiber optics, etc. for communications have been developed and put into use, but not addressed under the Construction Trades Act. The proposed changes will bring the rules into line with some of the changes in the industry. The State School Board was concerned about being in compliance with the law when it comes to their programs of training students in the construction trades by building residences for the schools to use as their on-the-job training centers and then selling the homes to the public. They contacted the Division and asked what they needed to do to get in compliance. There have been only one or two trades instructors licensed in Utah. Utah law requires trade instructor licenses for those who train students by having them perform construction work on houses that will eventually be occupied.

The proposed rule revision addresses the issues so the Division can effectively administer the licensing of trades instructors and thus assist the schools to come into compliance with the statute. It also requires the schools to obtain contractor licenses so they will be in compliance with the statute requiring those that are engaged in construction work to either be employees of a licensed contractor or be licensed contractors themselves.

SUMMARY OF THE RULE OR CHANGE: Section R156-55a-102, Definitions: a definition for "school" is added. Section R156-55a-301, License Classifications and Scope of Practice: citation corrections were made in 1101 and 1102. Waste Water was added to the license classification of S390-Sewer and Water Pipeline Contractor. Additions were made to S410-Pipeline and Conduit Contractor to cabling and horizontal boring for the installation of conduit or cables for communication systems. S491-Laminate Floor Installation

Contractor - minor wording changes were made to reference laminate floors. Section R156-55a-302a, Examinations: changes were made to reference licensure as a contractor or a construction trades instructor. Section R156-55a-302b, Experience Requirements: additions have been made to further clarify the experience necessary to obtain licensure as a contractor in Utah. Added that experience as a trades instructor is not considered qualifying experience for a contractor's license. Section R156-55a-302c, Qualifications for Licensure Requiring Licensure in a Prerequisite Classification: added to Subsection R156-44a-302c(1) additional types of electrician licenses qualifying for licensure as an I103 Electrical Trades Instructor. Deleted that each applicant for licensure as a S217 Residential Plumbing Contractor shall have as the qualifier either a licensed journeyman plumber or a residential journeyman plumber. Added Section R156-55a-302e which provides additional requirements for construction trades instructor classifications. This section requires that any school that provides instruction to students by building houses for sale to the public is required to become a Utah licensed contractor with either a B100 General Building Contractor or R100 Residential and Small Commercial Building Contractor classification or both. It also requires a license in the appropriate construction trades instructor classification. Added Section R156-55a-304 regarding construction trades instructor license qualifiers. Section R156-55a-306a, Financial Responsibility: made amendments to reflect that under no circumstances shall the aggregate bonding limit be less than \$25,000. Section R156-55a-306b: added "Division Audit" to the title of the section. Added Section R156-55a-308 regarding operating standards for schools or colleges licensed as contractors.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101, and Subsections 58-1-106(1), 58-1-202(1), 58-55-308(1), 58-55-301(1), and 58-55-102(21)

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The Division will incur minimal costs, less than \$100, to reprint the rule once the proposed changes are made effective. Any costs incurred by will be absorbed in the Division's current budget.

❖LOCAL GOVERNMENTS: Proposed rule does not apply to local government.

❖OTHER PERSONS: Each applicant for a S410-Pipeline and Conduit Contractor license will pay a license fee of \$100-\$200 (if S410 is the only classification applied for, the license fee is \$200; if S410 is an additional classification to a license, the license fee is \$100). In addition an applicant will be required to register with the Residence Lien Recovery Fund and pay a \$195 fee if they are not already registered. The number of unlicensed contractors who will be affected by the scope of practice changes in the S410 license classification is unknown by the Division. Each school that applies for a contractor license will pay a initial \$200 license fee and a fee of \$100 for each instructor classification added to that license. The school will also pay \$195 to register with the Residence Lien Recovery Fund. Schools are required to provide and maintain qualifiers for each contractor/instruction classification attached to the license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each applicant for a S410-Pipeline and Conduit Contractor license will pay a license fee of \$100-\$200 (if S410 is the only classification applied for, the license fee is \$200; if S410 is an additional classification to a license, the license fee is \$100). In addition an applicant will be required to register with the Residence Lien Recovery Fund and pay a \$195 fee if they are not already registered. Each school that applies for a contractor license will pay a initial \$200 license fee and a fee of \$100 for each instructor classification added to that license. The school will also pay \$195 to register with the Residence Lien Recovery Fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change which adds a licensure requirement for those who install communications conduit and cables and a licensure requirement for construction trades instructors could impact businesses in the following manner: (1) the additional expense of licensure might negatively impact the cable television industry and other communications businesses, and that additional cost might be transferred to consumers. The amount of the negative impact is not ascertainable, because it is difficult to estimate how many people are currently installing these communications conduit and cable without an appropriate license, who would need to become licensed to continue their activities; (2) the additional expense of licensure for construction trades instructors would add some costs to school districts, applied technology colleges or accredited colleges with construction trades programs. However, there appear to be less than a dozen such programs currently in Utah, and therefore the expense would be minimal; and (3) with the licensure of construction trades instructors, the construction trades programs could potentially grow, thereby increasing the number of homes built and sold by the schools. It is plausible that such sales could negatively impact the construction industry in this state. However, that impact is undeterminable at this time. Ted Boyer, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Cottle at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at ccottle@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-55a. Utah Construction Trades Licensing Act Rules.
R156-55a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 55, as defined or used in these rules:

(1) "Employee", as used in Subsections 58-55-102(10)(a) and 58-55-102(12), means a person providing labor services in the construction trades for compensation who has federal and state taxes withheld and workers' compensation and unemployment insurance provided by the person's employer.

(2) "Incidental to the performance of his licensed craft or trade" as used in Subsection 58-55-102(32) means work which:

(a) can be safely and competently performed by the specialty contractor;

(b) arises from and is directly related to work performed in the licensed specialty classification; and

(c) is substantially less in scope and magnitude when compared to the work performed or to be performed by the specialty contractor in the licensed specialty classification.

(3) "Maintenance" means the repair, replacement and refinishing of any component of an existing structure; but, does not include alteration or modification to the existing weight-bearing structural components.

(4) "Mechanical", as used in Subsections 58-55-102(15) and 58-55-102(25) means the work which may be performed by a S350 HVAC Contractor under Subsection R156-55a-301(3).

(5) "Personal property" means, as it relates to Title 58, Chapter 56, factory built housing and modular construction, a structure which is titled by the Motor Vehicles Division, state of Utah, and taxed as personal property.

(6) "School" means a Utah school district, applied technology college, or accredited college.

(7) "Unprofessional conduct" defined in Title 58, Chapters 1 and 55, is further defined in accordance with Subsection 58-1-203(5) in Section R156-55a-501.

R156-55a-301. License Classifications - Scope of Practice.

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The construction trades or specialty contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person who is practicing a construction trade or specialty contractor classification which is not listed is exempt from licensure in accordance with Subsection 58-55-305(9).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

E100 - General Engineering Contractor. A General Engineering contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(16).

B100 - General Building Contractor. A General Building contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(15).

R100 - Residential and Small Commercial Contractor. A Residential and Small Commercial contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(25).

R101 - Residential and Small Commercial Non Structural Remodeling and Repair. Remodeling and repair to any existing

structure built for support, shelter and enclosure of persons, animals, chattels or movable property of any kind with the restriction that no change is made to the bearing portions of the existing structure, including footings, foundation and weight bearing walls; and the entire project is less than \$25,000 in total cost.

R200 - Factory Built Housing Set Up Contractor. Set up or installation of manufactured housing on a temporary or permanent basis. The scope of the work permitted under this classification includes placement of the manufactured housing on a permanent or temporary foundation, securing the units together if required, securing the manufactured housing to the foundation, and connection of the utilities from the near proximity, such as a meter, to the manufactured housing unit and construction of foundations of less than four feet six inches in height. Work excluded from this classification includes site preparation or finishing, excavation of the ground in the area where a foundation is to be constructed, back filling and grading around the foundation, construction of foundations of more than four feet six inches in height and construction of utility services from the utility source to and including the meter or meters if required or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.

I101 - General Engineering Trades Instructor. A General Engineering Trades Instructor is a construction trades instructor authorized to teach the construction trades and is subject to the scope of practice defined in Subsection 58-55-102(~~14~~16).

I102 - General Building Trades Instructor. A General Building Trades Instructor is a construction trades instructor authorized to teach the construction trades and is subject to the scope of practice defined in Subsection 58-55-102(~~24~~15).

I103 - Electrical Trades Instructor. An Electrical Trades Instructor is a construction trades instructor authorized to teach the electrical trades and subject to the scope of practice defined in Subsection R156-55a-301(S200).

I104 - Plumbing Trades Instructor. A Plumbing Trades Instructor is a construction trades instructor authorized to teach the plumbing trades and subject to the scope of practice defined in Subsection R156-55a-301(S210).

I105 - Mechanical Trades Instructor. A Mechanical Trades Instructor is a construction trades instructor authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).

S200 - General Electrical Contractor. Fabrication, construction, and/or installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus which utilizes electrical energy.

S201 - Residential Electrical Contractor. Fabrication, construction, and/or installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances and fixtures in any residential unit, normally requiring non-metallic sheathed cable, including multiple units up to and including a four-plex, but excluding any work generally recognized in the industry as commercial or industrial.

S210 - General Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting, heating, and industrial

purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a building out to the main water, sewer or gas pipeline.

S211 - Boiler Installation Contractor. Fabrication and/or installation of fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto.

S212 - Irrigation Sprinkling Contractor. Layout, fabrication, and/or installation of water distribution system for artificial watering or irrigation.

S213 - Industrial Piping Contractor. Fabrication and/or installation of pipes and piping for the conveyance or transmission of steam, gases, chemicals, and other substances including excavating, trenching, and back-filling related to such work.

S214 - Water Conditioning Equipment Contractor. Fabrication and/or installation of water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises.

S215 - Solar Energy Systems Contractor. Fabrication and/or installation of solar energy systems.

S216 - Residential Sewer Connection and Septic Tank Contractor. Construction of residential sewer lines including connection to the public sewer line, and excavation and grading related thereto. Excavation, installation and grading of residential septic tanks and their drainage.

S217 - Residential Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in residential building, including multiple units up to and including a four-plex by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting and heating purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a residential building out to the main water, sewer or gas pipeline. Excluded is any new construction and service work generally recognized in the industry as commercial or industrial.

S220 - Carpentry Contractor. Fabrication for structural and finish purposes in a structure or building using wood, wood products, metal studs, vinyl materials, or other wood/plastic/metal composites as is by custom and usage accepted in the building industry as carpentry.

S221 - Cabinet and Millwork Installation Contractor. On-site construction and/or installation of milled wood products.

S230 - Metal and Vinyl Siding Contractor. Fabrication, construction, and/or installation of wood, aluminum, steel or vinyl sidings.

S231 - Raingutter Installation Contractor. On-site fabrication and/or installation of rain gutters and drains, roof flashings, gravel stops and metal ridges.

S240 - Glass and Glazing Contractor. Fabrication, construction, installation, and/or removal of all types and sizes of glass, mirrors, substitutes for glass, glass-holding members, frames, hardware, and other incidental related work.

S250 - Insulation Contractor. Installation of any insulating media in buildings and structures for the sole purpose of temperature

control, sound control or fireproofing, but shall not include mechanical insulation of pipes, ducts or conduits.

S260 - General Concrete Contractor. Fabrication, construction, mixing, batching, and/or installation of concrete and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, placing and erection of steel bars for reinforcing and application of plaster and other cement-related products.

S261 - Concrete Form Setting and Shoring Contractor. Fabrication, construction, and/or installation of forms and shoring material; but, does not include the placement of concrete, finishing of concrete or embedded items such as metal reinforcement bars or mesh.

S262 - Gunitite and Pressure Grouting Contractor. Installation of a concrete product either injected or sprayed under pressure.

S263 - Cementitious Coating Systems Resurfacing and Sealing Contractor. Fabrication, construction, mixing, batching and installation of cementitious coating systems or sealants limited to the resurfacing or sealing of existing surfaces, including the preparation or patching of the surface to be covered or sealed.

S270 - General Drywall, Stucco and Plastering Contractor. Fabrication, construction, and/or installation of drywall, gypsum, wallboard panels and assemblies. Preparation of drywall, stucco or plaster surfaces for suitable painting or finishing. Installation of light-weight metal, non-bearing wall partitions, ceiling grid systems, and ceiling tile or panel systems.

S271 - Plastering and Stucco Contractor. Application to surfaces of coatings made of stucco or plaster, including the preparation of the surface and the provision of a base. Exempted is the plastering of foundations.

S272 - Ceiling Grid Systems, Ceiling Tile and Panel Systems Contractor. Fabrication and/or installation of wood, mineral, fiber, and other types of ceiling tile and panels and the grid systems required for placement.

S273 - Light-weight Metal and Non-bearing Wall Partitions Contractor. Fabrication and/or installation of light-weight metal and other non-bearing wall partitions.

S274 - Drywall Contractor. Fabrication, construction and installation of drywall, gypsum, wallboard panels and assemblies. Preparation of surfaces for suitable painting or finishing. Installation of lightweight metal, non-bearing wall partitions.

S280 - General Roofing Contractor. Application and/or installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of any thereof which use and custom has established as usable for, or which are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces; and roof conversion.

S281 - Single Ply and Specialty Coating Contractor. Application of solutions of rubber, latex, or other materials or single-ply material to surfaces to prevent, hold, keep, and stop water, other liquids, derivatives, compounds, and solids from penetrating and passing such materials thereby gaining access to material or space beyond such waterproofing.

S282 - Build-up Roofing Contractor. Application of solutions of rubber, latex, asphalt, pitch, tar, or other materials in conjunction with the application of layers, felt, or other material to a roof or other surface.

S283 - Shingle and Shake Roofing Contractor. Application of shingles and shakes made of wood or any other material.

S284 - Tile Roofing Contractor. Application or installation of tile roofs including under layment material and sealing and

reinforcement of weight bearing roof structures for the purpose of supporting the weight of the tile.

S285 - Metal Roofing Contractor. On-site fabrication and/or application of metal roofing materials.

S290 - General Masonry Contractor. Construction by cutting, and/or laying of all of the following brick, block, or forms: architectural, industrial, and refractory brick, all brick substitutes, clay and concrete blocks, terra-cotta, thin set or structural quarry tile, glazed structural tile, gypsum tile, glass block, clay tile, copings, natural stone, plastic refractories, and castables and any incidental works as required in construction of the masonry work.

S291 - Stone Masonry Contractor. Construction using natural or artificial stone, either rough or cut and dressed, laid at random, with or without mortar.

S292 - Terrazzo Contractor. Construction by fabrication, grinding, and polishing of terrazzo by the setting of chips of marble, stone, or other material in an irregular pattern with the use of cement, polyester, epoxy or other common binders.

S293 - Marble, Tile and Ceramic Contractor. Preparation, fabrication, construction, and installation of artificial marble, burned clay tile, ceramic, encaustic, faience, quarry, semi-vitreous, and other tile, excluding hollow or structural partition tile.

S294 - Cultured Marble Contractor. Preparation, fabrication and installation of slab and sheet manmade synthetic products including cultured marble, onyx, granite, onice, corian and corian type products.

S300 - General Painting Contractor. Preparation of surface and/or the application of all paints, varnishes, shellacs, stains, waxes and other coatings or pigments.

S310 - Excavation and Grading Contractor. Moving of the earth's surface or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, or combination thereof as they are generally practiced in the construction trade.

S320 - Steel Erection Contractor. Construction by fabrication, placing, and tying or welding of steel reinforcing bars or erecting structural steel shapes, plates of any profile, perimeter or cross-section that are used to reinforce concrete or as structural members, including riveting, welding, and rigging.

S321 - Steel Reinforcing Contractor. Fabricating, placing, tying, or mechanically welding of reinforcing bars of any profile that are used to reinforce concrete buildings or structures.

S322 - Metal Building Erection Contractor. Erection of pre-fabricated metal structures including concrete foundation and footings, grading, and surface preparation.

S323 - Structural Stud Erection Contractor. Fabrication and installation of metal structural studs and bearing walls.

S330 - Landscaping Contractor. Grading and preparing land for architectural, horticultural, and the decorative treatment, arrangement, and planting or gardens, lawns, shrubs, vines, bushes, trees, and other decorative vegetation. Construction of pools, tanks, fountains, hot and green houses, retaining walls, patio areas when they are an incidental part of the prime contract, fences, walks, garden lighting of 50 volts or less, and sprinkler systems.

S340 - Sheet Metal Contractor. Layout, fabrication, and installation of air handling and ventilating systems. All architectural sheet metal such as cornices, marquees, metal soffits, gutters, flashings, and skylights and skydomes including both plastic and fiberglass.

S350 - HVAC Contractor. Fabrication and installation of complete warm air heating and air conditioning systems, and complete ventilating systems.

S351 - Refrigerated Air Conditioning Contractor. Fabrication and installation of air conditioning ventilating systems to control air temperatures below 50 degrees.

S352 - Evaporative Cooling Contractor. Fabrication and installation of devices, machinery, and units to cool the air temperature employing evaporation of liquid.

S353 - Warm Air Heating Contractor. Layout, fabrication, and installation of such sheet metal, gas piping, and furnace equipment as necessary for a complete warm air heating and ventilating system.

S360 - Refrigeration Contractor. Construction and/or installation of refrigeration equipment including, but not limited to, built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto; but, the scope of permitted work does not include the installation of gas fuel or electric power services other than connection of electrical devices to a junction box provided for that device and electrical control circuitry not exceeding 50 volts.

S370 - Fire Suppression Systems Contractor. Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When a potable sanitary water supply system is used as the source of supply, connection to the water system must be accomplished by a licensed journeyman plumber. Excluded from this classification are persons engaged in the installation of fire suppression systems in hoods above cooking appliances.

S380 - Swimming Pool and Spa Contractor. On-site fabrication, construction and installation of swimming pools, spas, and tubs.

S390 - Sewer and Waste Water Pipeline Contractor. Construction of sewer lines, sewage disposal and sewage drain facilities including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto.

S400 - Asphalt Paving Contractor. Construction of asphalt highways, roadways, driveways, parking lots or other asphalt surfaces, which will include but will not be limited to, asphalt overlay, chip seal, fog seal and rejuvenation, micro surfacing, plant mix sealcoat, slurry seal, and the removal of asphalt surfaces by milling. Also included is the excavation, grading, compacting and laying of fill or base-related thereto.

S410 - Pipeline and Conduit Contractor. Fabrication, construction, and installation of pipes, conduit or cables for the conveyance and transmission from one station to another of such products as water, steam, gases, chemicals, [~~or~~]slurries, or communications. Included are the excavation, cabling, horizontal boring, grading, and backfilling necessary for construction of the system.

S420 - General Fencing and Guardrail Contractor. Fabrication, construction, and installation of fences, guardrails, and barriers.

S421 - Residential Fencing Contractor. Fabrication and installation of residential fencing up to and including a height of six feet.

S430 - Metal Firebox and Fuel Burning Stove Installer. Fabrication, construction, and installation of metal fireboxes, fireplaces, and wood or coal-burning stoves.

S440 - Sign Installation Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state or local governmental jurisdictions. Signs and

graphic displays shall include signs of all types, both lighted and unlighted, permanent highway marker signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks intended to identify or advertise the user or his product, building trim or lighting with neon or decorative fixtures, or any other animated, moving or stationary device used for advertising or identification purposes. Signs and graphic displays must be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code.

S441 - Non Electrical Outdoor Advertising Sign Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state and local governmental jurisdictions. Signs and graphics shall include outdoor advertising signs which do not have electrical lighting or other electrical requirements, and in accordance with professionally engineered specifications.

S450 - Mechanical Insulation Contractor. Fabrication, application and installation of insulation materials to pipes, ducts and conduits.

S460 - Wrecking and Demolition Contractor. The raising, cribbing, underpinning, moving, and removal of building and structures so that alterations, additions, repairs, and new sub-structures may be built.

S470 - Petroleum Systems Contractor. Installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt.

S480 - Piers and Foundations Contractor. The excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter or repair piers, piles, footings and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.

S490 - Wood Flooring Contractor. Installation of wood flooring including prefinished and unfinished material, sanding, staining and finishing of new and existing wood flooring. Underlayments, non-structural subfloors and other incidental related work.

S491 - Laminate Floor Installation Contractor. Installation of laminate floors [made up of wood and/or composite wood materials] including underlayments, non-structural subfloors and other incidental related work, but does not include the installation of sold wood flooring.

S500 - Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor. Installation of sports and athletic courts including but not limited to tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any combination. Includes nonstructural floor subsurfaces, nonstructural wall surfaces, perimeter walls and perimeter fencing.

R156-55a-302a. Qualifications for Licensure - Examinations.

(1) In accordance with Subsection 58-55-302(1)(c), an applicant for licensure as a contractor or a construction trades instructor [a contractor's license] shall pass the following examinations as a condition precedent to licensure as a contractor or a construction trades instructor:

- (a) the Trade Classification Specific Examination; and
- (b) the Utah Contractor Business - Law Examination.

(2) The passing score for each examination is 70%.

R156-55a-302b. Qualifications for Licensure - Experience Requirements.

In accordance with Subsection 58-55-302(1)(e)(ii), the minimum experience requirement for each applicant or applicant's qualifier is established as follows:

(1) An applicant for contractor classification E100 General Engineering, B100 General Building, R100 Residential and Small Commercial Building shall have within the past 10 years a minimum of four years full-time related experience as an employee of a licensed or exempt contractor, two years of which shall be in a supervisory or managerial position under the direct supervision of a licensed or exempt E100, B100 or R100 contractor, or its substantial equivalent if from another state. The supervisory experience shall be in the classification for which application is being made, or its substantial equivalent, or have been a qualifier for a licensed contractor under any construction classification [other than an E100, B100 or R100] for a minimum of four years. A person holding a four year bachelors degree or a two year associates degree in Construction Management may have one year supervisory or managerial experience credited towards the experience requirement.

(2) An applicant for contractor classifications S280 General Roofing, S290 General Masonry, S320 Steel Erection, S350 Heating, Ventilating and Air Conditioning, S360 Refrigeration and S370 Fire Suppression Systems shall have within the past 10 years a minimum of four years of full-time related experience as an employee of a licensed or exempt contractor.

(3) An applicant for contractor classifications not listed in Subsections (1) and (2) above shall have within the past 10 years a minimum of two years of full-time related experience as an employee of a licensed or exempt contractor.

(4) An applicant for construction trades instructor classifications shall have the same experience as required for the appropriate contractor, electrician, or plumber classification or classifications for the construction trade or trades they are instructing. Experience as a construction trades instructor is not qualifying experience for a contractors license.

R156-55a-302c. Qualifications for Licensure Requiring Licensure in a Prerequisite Classification.

(1) Each applicant for licensure as a I103 Electrical Trades Instructor shall also be licensed as either a journeyman or master electrician or a residential journeyman or residential master electrician.

(2) Each applicant for licensure as a I104 Plumbing Trades Instructor shall also be licensed as either a journeyman plumber or a residential journeyman plumber.

~~(3) Each applicant for licensure as a S217 Residential Plumbing Contractor shall have as the qualifier either a licensed journeyman plumber or a residential journeyman plumber.]~~

R156-55a-302e. Additional Requirements for Construction Trades Instructor Classifications.

In accordance with Subsection 58-55-302(1)(f), the following additional requirements for licensure are established:

(1) Any school that provides instruction to students by building houses for sale to the public is required to become a Utah licensed contractor with a B100 General Building Contractor or R100 Residential and Small Commercial Building Contractor classification or both.

(2) Any school that provides instruction to students by building houses for sale to the public is also required to be licensed in the appropriate instructor classification.

(a) Before being licensed in a construction trades instructor classification, the school shall submit the name of an individual person who acts as the qualifier in each of the construction trades instructor classifications in accordance with Section R156-55a-304. The applicant for licensure as a construction trades instructor shall:

(i) provide evidence that the qualifier has passed the required examinations established in Section R156-55a-302a; and

(ii) provide evidence that the qualifier meets the experience requirement established in Subsection R156-55a-302b(4).

(3) Each individual employed by a school licensed as a construction trades instructor and working with students on a job site shall meet any teacher certification, or other teacher requirements imposed by the school district or college, and be qualified to teach the construction trades instructor classification as determined by the qualifier.

R156-55a-304. Construction Trades Instructor License Qualifiers.

In accordance with Subsection 58-55-302(1)(f), the contractor license qualifier requirements in Section 58-55-304 shall also apply to construction trades instructors.

R156-55a-306a. Financial Responsibility - [~~License Bonds and Cash Deposits~~] Questionnaire and Aggregate Bonding Limit.

In accordance with Section 58-55-306, the following shall apply:

(1) An applicant may demonstrate financial responsibility by either submitting the questionnaire [~~and financial information~~] or by submitting proof of an aggregate bonding limit in a form acceptable to the division.

(2) Under no circumstances shall the aggregate bonding limit be less than \$25,000.[

R156-55a-306b. Financial Responsibility - Division Audit - Financial Statements.

(1) All financial statements shall cover a period of time ending no earlier than the last tax year.

(2) Financial statements prepared by an independent certified public accountant (CPA) shall be "audited", "reviewed", or "compiled" financial statements prepared in accordance with generally accepted accounting principles and shall include the CPA's report stating that the statements have been audited, reviewed or compiled.

(3) Division reviewed financial statements shall be submitted in a form acceptable to the division and shall include the following:

(a) the balance sheet;

(b) all schedules;

(c) a complete copy of the applicant's most recently filed federal income tax return;

(d) a copy of the applicant's bank or broker account statements; and

(e) an acceptable credit report for the applicant.

(4) An acceptable credit report is:

(a) dated within 30 days prior to the date the application is received by the division;

(b) free from erasures, alterations, modifications, omissions, or any other form of change which alters the full and complete information provided by the credit reporting agency;

(c) a report from:

(i) Trans Union, Experian, and Equifax national credit reporting agencies; or

(ii) National Association of Credit Managers (NACM); or

(iii) another local credit reporting agency that includes a report for each of the three national credit reporting agencies names in Subsection (i) above.

R1565-55a-308. Operating Standards for Schools or Colleges Licensed as Contractors.

(1) Each school licensed as a B100 General Building Contractor or a R100 Residential and Small Commercial Contractor or both shall obtain all required building permits for homes built for resale to the public as part of an educational training program.

(2) Each school licensed as a construction trades instructor shall:

(a) post with the building permit at each building project a notarized list, signed by an authorized signer on school letterhead, of all teachers who will be working with students on that project and the trade they will be instructing; and

(b) if instructing in the plumbing or electrical trades, include in the posting the teacher's Utah journeyman or residential journeyman plumber license number or Utah journeyman, residential journeyman, master, or residential master electrician license number by their names.

(3) Each school licensed as a construction trades instructor shall not allow any teacher or student to work on any portion of the project subcontracted to a licensed contractor unless the teacher or student are lawful employees of the subcontractor.

KEY: contractors, occupational licensing, licensing
~~December 18, 2000~~ 2001

Notice of Continuation March 3, 1997

58-1-106(1)

58-1-202(1)

58-55-101

58-55-308(1)

58-55-301(1)

58-55-102(22)



**Governor, Planning and Budget, Chief
Information Officer**

R365-5

**State Privacy Policy and Agency
Privacy Policies**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 24152

FILED: 10/24/2001, 08:20

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To move government services to the Internet and get maximum use by citizens and businesses of these new convenient services, users must understand how personally identifiable information collected about them is used. For greater public participation

in e-government services citizens must trust that the state will be good stewards of their data. This rule describes how the state will do this.

SUMMARY OF THE RULE OR CHANGE: Establishes a statewide policy for informing the public how personally identifiable information is collected and used by the State of Utah websites; describes the relationships that exist between State agency privacy policies and this rule; and establishes notification and posting requirements for State websites.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63D-1-301.5 and 63-46a-3

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Some agencies may need to create agency privacy policies that would result in staff time required to analyze and write these. Statewide this may result in initial personnel costs of roughly \$40,000. However, this would come out of existing personnel resources. However, it is likely that this initial investment of time will increase adoption and use of e-government services resulting in potentially millions of dollars in cost savings in reduced staff time associated with processing paper and doing key entry into agency databases.

❖ **LOCAL GOVERNMENTS:** The Chief Information Officer (CIO) lacks statutory authority to regulate local governments.

❖ **OTHER PERSONS:** There is no additional cost to other persons. Although there is the possibility of substantial savings over time due to increased confidence in using online services, it is not possible to calculate the impact or extent of these savings until utilization is determined for specific applications in the future.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule applies to state agencies only. Therefore, any individual, partnership, corporation, association, government entity, or public or private organization of any character other than an agency would not incur compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Impact costs are minimal and will in the future become cost savings as it addresses citizen and business privacy concerns. This will result in an increase in those who trust and use the Internet to conduct business.

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

GOVERNOR
PLANNING AND BUDGET, CHIEF INFORMATION
OFFICER
Room 116 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Al Sherwood at the above address, by phone at 801-538-1195, by FAX at 801-538-1547, or by Internet E-mail at asherwoo@gov.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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Phillip Windley, Chief Information Officer

R365. Governor, Planning and Budget, Chief Information Officer.

R365-5. State Privacy Policy and Agency Privacy Policies.

R365-5-1. Purpose.

The purpose of this rule is to:

(1) establish a statewide policy for informing the public how personally identifiable information is collected and used by the State of Utah (State) websites;

(2) describe the relationships that exist between State agency privacy policies and the Privacy Policy Statement for State of Utah Websites (the State Policy);

(3) establish notification and posting requirements for State websites.

R365-5-2. Application.

All executive branch agencies of State government shall comply with this rule, except the State Board of Education, the Board of Regents and institutions of higher education, regardless of whether the State agency implements the State Policy or issues a website privacy policy of its own.

R365-5-3. Authority.

This rule is issued by the Chief Information Officer (CIO) under the authority of Section 63D-1-301.5 of the Information Technology Act, and in accordance with Section 63-46a-3 of the Utah Rulemaking Act, Utah Code Annotated.

R365-5-4. Definitions.

As used in this rule:

(1) "Conspicuous" means any material displayed, for example, in a manner that a reasonable person should notice it.

(2) "Link" means a connection marker on a Web page that permits an Internet user to gain access to one web page from another.

(3) "Home page" means the main, or first page retrieved when accessing an Internet Web site. It serves as a table of contents to the rest of the pages on the site or to other Web sites. This may refer to either a department home page or to other state agency pages such as those of an office or division.

(4) "Personally identifiable information" means any information collected online that could serve to identify an individual, including:

(a) first and last name;

(b) physical address;

(c) e-mail address;

(d) telephone number;

(e) Social Security number;

(f) credit card information;

(g) bank account information; and

(h) any combination of personal information that could be used to determine identity.

(5) "Privacy policy" means a policy or statement that describes how information collected is gathered, used, stored, retrieved, and protected.

(6) "State agency" means any agency or administrative sub-unit of the executive branch of the State government, except:

(a) the State Board of Education; and

(b) the Board of Regents and institutions of higher education.

(7) "State function" means an activity explicitly, or implicitly assigned by the legislature, as having a specific role in the operation of the state's government.

(8) "Privacy Policy Statement For State of Utah Websites" means a statement approved by the Chief Information Officer and published on the state home page <http://www.utah.gov> that describes to Website users the state's privacy policy as established through this rule.

(9) "Privacy Risk Assessment" means a series of questions approved by the Chief Information Officer that are designed to:

(a) assist agencies in identifying and reducing potential levels of risk to the privacy of individuals using an online government service through state of Utah Websites;

(b) provide information to assist in determining different levels of security;

(c) collect information needed to determine, and if necessary, create an agency privacy policy if one is needed in addition to the State Policy.

(10) "Website" means a set of documents or pages located on the World Wide Web.

R365-5-5. Agency Privacy Policies.

(1) A State agency may issue a privacy policy that provides additional detail to, but does not conflict with the terms of this rule.

(2) When a State agency is required by a federal statute, federal regulation, or State statute to collect or use the personally identifiable information of those accessing its website in a manner that is inconsistent with this rule, it shall issue a privacy policy of its own.

(3) An agency privacy policy issued in accordance with this rule shall apply only to the website of the issuing State agency.

(4) An agency may not substitute its own privacy policy for this rule, unless a state law, federal regulation or federal statute requires an agency to treat personally identifiable information in a way that is inconsistent with this rule. In this case, the specific provision or provisions of this rule that conflict with the state statute, federal regulation or federal statute does not apply. If that occurs, the remainder of the provisions of this rule shall apply to the agency.

R365-5-6. Use of Personally Identifiable Information.

(1) Any personally identifiable information an individual provides to a State website shall be used solely by the State, its entities, and third party agents with whom it has contracted to perform a state function on its behalf, unless:

(a) this rule is superseded by a federal statute, federal regulation, or State statute in which case the personally identifiable information shall be used by other parties only to the extent required by the superseding federal statute, federal regulation or State Statute, or

(b) the information is designated as public record by an individual State agency as authorized under Title 63, Chapter 2 of the Utah Code, Government Records Access and Management Act.

R365-5-7. Notification and Posting Requirements.

(1) If either of the exceptions listed in R365-5-7 Subsection (1)(a) or (b) apply or if the State agency issues an agency privacy policy for its website as permitted under this rule, then the agency shall conspicuously post that information on the Web pages where personally identifiable information is collected or on the home page of its Website including the following:

(a) a notice that such personally identifiable information is subject to public access, if such information is public record;

(b) a notice and a summary or link to the citation of any State statute, federal statute, or federal regulation that supercedes part or all of this rule;

(c) a link to the agency's privacy policy;

(d) a link from the agency's website to this rule and

(e) a link from the agency's website to the State Policy.

(2) The agency privacy policy shall indicate:

(a) the name of the issuing agency;

(b) a statement that the agency privacy policy applies to its own website only;

(c) a statement about what personally identifiable information the policy specifically applies to; and

(d) a statement defining how its agency privacy policy differs from this rule.

(3) The effective date for this subsection shall be four months from the effective date of this rule for information collected through existing online applications. If requested in writing by the agency, an additional extension for up to 30-days may be given by the chief information officer. For all new online applications the conditions of this subsection must be met prior to the application going "live."

R365-5-8. Privacy Risk Assessment for Online Applications.

Each state agency shall complete a "Privacy Risk Assessment" that is authorized by the CIO, for all online applications. The agency shall maintain a copy of each completed assessment for a period of four years for the purpose of providing audit documentation.

R365-5-9. Periodic Audits.

The CIO may measure compliance of a State agency and its employees with this rule by conducting periodic audits in accordance with Section 63D-1-301.5, Utah Code Annotated. In performing audits, the CIO may utilize external auditors, an agency's internal auditor(s) or both.

R365-5-10. Statutes that may affect this Rule.

Included among the federal and State statutes that may supersede portions of this rule are the Driver's Privacy Protection Act of 1994, Title 18, Section 2721, United States Code; and Sections 41-1a-116, 53-1-104, 53-1-109, and 59-1-403, Utah Code Annotated.

KEY: privacy, website, CIO

2001

63D-1-301.5

63-46a-3

63-2-101 et seq.



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-304
Income and Budgeting

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24167

FILED: 10/29/2001, 08:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rulemaking is necessary to add an income disregard for aged and disabled people to determine their eligibility for Medicaid. The intent is to enable people who had income below 100% of poverty to continue to receive Medicaid under the categorically needy 100% poverty group even though the cost-of-living adjustment they received in 2001 put their income just barely over the 100% poverty rate.

SUMMARY OF THE RULE OR CHANGE: This rule adds an \$8 income disregard from an aged or disabled individual's income, or from the combined income of an individual and spouse, when determining if their countable income is at or below 100% of the federal poverty guideline.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-1

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: This rule change will not have a fiscal impact on the Department or any other agency of state government. Current eligibility levels are maintained.

❖LOCAL GOVERNMENTS: This rule has no application to local government, so there should not be a fiscal impact.

❖OTHER PERSONS: Aged or disabled individuals will remain eligible for Medicaid if disregarding \$8 of their countable income keeps them at or below 100% of the federal poverty guideline. This should maintain current eligibility levels. No cost or savings are predicted.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change should maintain the status quo for currently eligible Medicaid recipients and should not impose any compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Medicaid recipients that receive Social Security had a cost of living increase in 2001 that pushed a few slightly over 100% of the federal poverty level. As a result they would be liable for a large spenddown to remain Medicaid eligible. This income disregard will maintain their ability to receive Medicaid services. Rod L. Betit

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

HEALTH
HEALTH CARE FINANCING,

COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gayle M Six at the above address, by phone at 801-538-6895, by FAX at 801-538-6952, or by Internet E-mail at gsix@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Rod Betit, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-304. Income and Budgeting.****R414-304-1. Definitions.**

The definitions in R414-1 and R414-301 apply to this rule. In addition:

(1) "Allocation for a spouse" means an amount of income that is the difference between the SSI federal benefit rate for a couple minus the federal benefit rate for an individual.

(2) "Basic maintenance standard (BMS)" means the income level for eligibility based on the number of family members who are counted in the medical assistance unit.

(3) "Benefit month" means a month in which an individual is eligible for Medicaid.

(4) "Federal poverty guidelines" means the U.S. federal poverty measure issued annually by the Department of Health and Human Services that is used to determine financial eligibility for means tested federal programs.

(5) "Household size" means the number of family members, including the client, who are counted based on the criteria of the particular program to decide what level of income to use to determine eligibility.

(6) "Poverty-related program" means a medical assistance program that uses a percentage of the federal poverty guideline for the household size involved to determine eligibility

R414-304-2. A, B and D Medicaid and A, B and D Institutional Medicaid Unearned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.832, 1998 ed., and 20 CFR 416.1102, 416.1103, 416.1120 through 416.1148, 416.1150, 416.1151, 416.1163 through 416.1166, and Appendix to Subpart K of 416, 1998 ed., which are incorporated by reference. The Department adopts Subsection 404(h)(4) and 1612(b)(22) of the Compilation of the Social Security Laws in effect January 1, 1999 which are incorporated by reference. The Department shall not count as income any payments that are prohibited under other federal laws from being counted as income to determine eligibility for federally-funded medical assistance programs.

(2) The following definitions apply to this section:

(a) "Deeming" or "deemed" means a process of counting income from a spouse of an aged, blind, or disabled person or from a parent of a blind or disabled child to decide what amount of income after certain allowable deductions, if any, must be considered income to an aged, blind, or disabled person or child.

(b) "Eligible spouse" means the member of a married couple who is either aged, blind, or disabled.

(c) "In-kind support donor" means an individual who provides food or shelter without receiving full market value compensation in return.

(d) "Presumed maximum value" means the allowed maximum amount an individual is charged for the receipt of food and shelter. This amount shall not exceed 1/3 of the SSI payment plus \$20.

(3) Only the portion of a VA check to which the client is legally entitled is countable income. VA payments for aid and attendance do not count as income. The portion of a VA payment which is made because of unusual medical expenses is not countable income. Other VA income based on need is countable income, but is not subject to the \$20 general income disregard.

(4) The value of special circumstance items is not countable income if the items are paid for by donors.

(5) For A, B and D Medicaid two-thirds of child support received a month is countable unearned income. It does not matter if the payments are voluntary or court-ordered. It does not matter if the child support is received in cash or in-kind.

(6) For A, B and D Institutional Medicaid court-ordered child support payments must be paid to the Office of Recovery Services (ORS) when the child resides out-of-home in a Medicaid 24-hour care facility. If the child has no income or insufficient income to provide for a personal needs allowance, ORS will allow the parent to retain up to the amount of the personal needs allowance to send to the child for personal needs. All other child support payments received by the child or guardian that are not subject to collection by ORS shall count as unearned to the child.

(7) The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

(8) If the client, or the client and spouse do not live with an in-kind support donor, in-kind support and maintenance is the lesser of the value or the presumed maximum value of food or shelter received. If the client, or the client and spouse live with an in-kind support donor and do not pay a prorated share of household operating expenses, in-kind support and maintenance is the difference between the prorated share of household operating expenses and the amount the client, or the client and spouse actually pay, or the presumed maximum value, whichever is less.

(9) SSA reimbursements of Medicare premiums are not countable income.

(10) Reimbursements of a portion of Medicare premiums made by the state Medicaid agency to an individual eligible for QI-Group 2 coverage are not countable income.

(11) Payments under a contract, retroactive payments from SSI and SSA reimbursements of Medicare premiums are not considered lump sum payments.

(12) Educational loans, grants, and scholarships guaranteed by the U.S. Department of Education are not countable income if the recipient is an undergraduate. Income from service learning programs is not countable income if the recipient is an undergraduate. Deductions are allowed from countable educational income if receipt of the income depends on school attendance and if the client pays the expense. Allowable deductions include:

(a) tuition;

(b) fees;

(c) books;

(d) equipment;

(e) special clothing needed for classes;

(f) travel to and from school at a rate of 21 cents a mile, unless the grant identifies a larger amount;

(g) child care necessary for school attendance.

(13) Except for an individual eligible for the Medicaid Work Incentive Program, the following provisions apply to non-institutional medical assistance:

(a) For A, B, or D Medicaid, the income of a spouse shall not be considered in determining Medicaid eligibility of a person who receives SSI. SSI recipients who meet all other Medicaid eligibility factors shall be eligible for Medicaid without spending down.

(b) If an ineligible spouse of an aged, blind, or disabled person has more income after deductions than the allocation for a spouse, that income shall be deemed to be income to the aged, blind, or disabled spouse to determine eligibility.

(c) The Department shall determine household size and whose income counts for A or D Medicaid as described below.

(i) If only one spouse is aged or disabled:

(A) income of the ineligible spouse shall be deemed to be income to the eligible spouse when it exceeds the allocation for a spouse. The combined income shall then be compared to 100% of the federal poverty guideline for a two-person household. If the combined income exceeds that amount, it shall be compared, after allowable deductions, to the BMS for two to calculate the spenddown.

(B) If the ineligible spouse's income does not exceed the allocation for a spouse, the ineligible spouse's income shall not be counted and the ineligible spouse shall not be included in the household size or the BMS. Only the eligible spouse's income shall be compared to 100% of the federal poverty guideline for one. If the income exceeds that amount, it shall be compared, after allowable deductions, to the BMS for one to calculate the spenddown.

(ii) If both spouses are either aged or disabled, the income of both spouses is combined and compared to 100% of the federal poverty guideline for a two-person household. SSI income is not counted.

(A) If the combined income exceeds that amount, and one spouse receives SSI, only the income of the non-SSI spouse, after allowable deductions, shall be compared to the BMS for a one-person household to calculate the spenddown.

(B) If neither spouse receives SSI and their combined income exceeds the federal poverty guideline, then the income of both spouses, after allowable deductions, shall be compared to the BMS for a two-person household to calculate the spenddown.

(C) If neither spouse receives SSI and only one spouse will be covered under the applicable program, income of the non-covered spouse shall be deemed to the covered spouse when it exceeds the spousal allocation. If the non-covered spouse's income does not exceed the spousal allocation, then only the covered spouse's income shall be counted. In both cases, the countable income shall be compared to the two-person poverty guideline. If it exceeds the limit, then income shall be compared to the BMS.

(I) If the non-covered spouse has deemable income, the countable income shall be compared to a two-person BMS to calculate a spenddown.

(II) If the non-covered spouse does not have deemable income, then only the covered spouse's income shall be compared to a one-person BMS to calculate the spenddown.

(iii) If an aged or disabled person has a spouse who is blind, then income of the blind spouse shall be deemed to the aged or disabled person when this income exceeds the allocation for a spouse to determine eligibility for the poverty-related Aged or Disabled Medicaid programs. If the deemed income of the blind spouse does not exceed the allocation for a spouse, none of the blind spouse's income shall be counted. In either case, countable income shall be compared to the poverty guideline for a two-person household to determine eligibility for the aged or disabled spouse.

(A) If the countable income does not exceed the two-person poverty guideline, then the aged or disabled spouse shall be eligible under the poverty-related Aged or Disabled Medicaid program.

(B) If the countable income exceeds the two-person poverty guideline, then eligibility under the spenddown program shall be determined as described in (ii)(A) if the blind spouse receives SSI or as in (ii)(B) or (ii)(C)(I) or (II) if the blind spouse does not receive SSI.

(d) The Department shall determine household size and whose income counts for B Medicaid as described below.

(i) If the spouse of a blind client is aged, blind, or disabled and does not receive SSI, income of both spouses shall be combined and, after allowable deductions, compared to the BMS for a two-person household to calculate the spenddown.

(A) If only one spouse will be covered, or the aged or disabled spouse is eligible under the A or D poverty-related program, income of the non-covered spouse shall be deemed when it exceeds the allocation for a spouse. The total countable income shall then be compared to the BMS for a two-person household to calculate the spenddown.

(B) If the non-covered spouse's income does not exceed the allocation for a spouse, then only the covered spouse's income shall be counted and compared to the BMS for a one-person household.

(C) If the spouse of a blind client receives SSI, then only the income of the blind spouse shall be compared to the BMS for one.

(ii) If the spouse is not aged, blind, or disabled, income shall be deemed to the blind spouse when it exceeds the allocation for a spouse, and, after allowable deductions, the combined income shall be compared to the BMS for two. If the ineligible spouse's income does not exceed the allocation for a spouse, only the blind spouse's income, after allowable deductions, shall be compared to the BMS for one person to calculate the spenddown.

(e) The Department shall determine household size and whose income counts for QMB, SLMB, and QI assistance as described below.

(i) If both spouses receive Part A Medicare and both want coverage, income shall be combined and compared to the applicable percentage of the poverty guideline for a two-person household. SSI income shall not be counted.

(ii) If one spouse receives Part A Medicare, and the other spouse is aged, blind, or disabled, does not receive Part A Medicare, or does not want coverage, then income of the ineligible spouse shall be deemed to the eligible spouse when it exceeds the allocation for a spouse. If the income of the ineligible spouse does not exceed the allocation for a spouse, then only the income of the eligible spouse shall be counted. In both cases, the countable income shall be compared to the applicable percentage of the federal poverty guideline for a two-person household.

(f) If any parent in the home receives SSI, the income of neither parent shall be considered to determine a child's eligibility for B or D Medicaid.

(g) Payments for providing foster care to a child are countable income. The portion of the payment that represents a reimbursement for the expenses related to providing foster care is not countable income.

(14) For institutional Medicaid, the Department shall only count the client in the household size and only count the client's income to determine contribution to cost of care.

(15) Interest accrued on an Individual Development Account as defined in Sections 404-416 of Pub. L. No. 105-285 effective October 27, 1998 shall not count as income.

R414-304-3. Medicaid Work Incentive Program Unearned Income Provisions.

(1) The Department adopts 20 CFR 416.1102, 416.1103, 416.1120 through 416.1148, 416.1150, 416.1151, and Appendix to Subpart K of 416, 1998 ed., which are incorporated by reference. The Department adopts Pub. L. No. 105-33 (4735) enacted August 5, 1997, Pub. L. No. 104-193, Section 103 effective August 22, 1996, and Pub. L. No. 105-285, Section 404-416 effective October 27, 1998 which are incorporated by reference. The Department adopts Pub. L. No. 104-204 (1805)(c) and (d) enacted September 26, 1996 and 105-306 (7)(a) and (c) enacted October 28, 1998 which is incorporated by reference.

(2) The Department shall allow the provisions found in R414-304-2 (3) through (12) and (14).

(3) The income from an ineligible spouse or parent shall be determined by the total of the earned and unearned income using the appropriate exclusions in 416.1161, except that court ordered support payments would not be allowed.

(4) For the Medicaid Work Incentive Program, the income of a spouse or parent shall not be considered in determining eligibility of a person who receives SSI. SSI recipients who meet all other Medicaid Work Incentive Program eligibility factors shall be eligible without paying a Medicaid buy-in premium.

(5) The Department shall determine household size and whose income counts for the Medicaid Work Incentive Program as described below:

(a) If the Medicaid Work Incentive Program individual is an adult and is not living with a spouse, count only the income of the individual. After allowable deductions, the net income shall be compared to 250% of the federal poverty guideline for one person.

(b) If the Medicaid Work Incentive Program individual is living with a spouse, combine their income before allowing any deductions. Include in the household size the spouse and any children under age 18. Also include in the household size any children who are 18, 19, or 20 and are full-time students. Compare the net income of the Medicaid Work Incentive Program individual and spouse to 250% of the federal poverty guideline for the household size involved.

(c) If the Medicaid Work Incentive Program individual is a child living with a parent, combine the income of the Medicaid Work Incentive Program individual and the parents before allowing any deductions. Include in the household size the parents, any minor siblings, and siblings who are age 18, 19, or 20 and are full-time students. Compare the net income of the Medicaid Work Incentive Program individual and their parents to 250% of the federal poverty guideline for the household size involved.

(6) Interest accrued on an Individual Development Account as defined in Sections 404-416 Of Pub. L. No. 105-285 effective October 27, 1998 shall not count as income.

R414-304-4. Family Medicaid and Institutional Family Medicaid Unearned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.832, 1998 ed., and 45 CFR 233.20(a)(1), 233.20(a)(3)(iv), 233.20(a)(3)(v), 233.20(a)(3)(xxi), 233.20(4)(ii), and 233.51, 1998 ed., which are incorporated by reference. The Department adopts Subsection 404(h)(4) of the Compilation of the Social Security Laws in effect January 11, 1999, which is incorporated by reference. The Department shall not count as income any payments that are prohibited under other federal laws from being counted as income to determine eligibility for federally-funded medical assistance programs.

(2) The following definitions apply to this section:

(a) A "bona fide loan" is a loan that has been contracted in good faith without fraud or deceit and genuinely endorsed in writing for repayment.

(b) "Unearned income" means cash received for which the individual performs no service.

(c) "Quarter" means any three month period that includes January through March, April through June, July through September or October through December.

(3) Bona fide loans are not countable income.

(4) Support and maintenance assistance provided in-kind by a non-profit organization certified by the Department of Human Services is not countable income.

(5) The value of food stamp assistance is not countable income.

(6) SSI and State Supplemental Payments are income for children receiving Child, Family, Newborn, or Newborn Plus Medicaid.

(7) \$30 is deducted from rental income if that income is consistent with community standards. Additional deductions are allowed if the client can prove greater expenses. The following expenses in excess of \$30 may be allowed:

(a) taxes and attorney fees needed to make the income available;

(b) upkeep and repair costs necessary to maintain the current value of the property. This includes utility costs.

(c) only the interest can be deducted on a loan or mortgage made for upkeep or repair;

(d) if meals are provided to a boarder, the value of a one-person food stamp allotment.

(8) Cash gifts that do not exceed \$30 a quarter per person in the assistance unit are not countable income. A cash gift may be divided equally among all members of the assistance unit.

(9) Deferred income is countable income when it is received by the client if receipt can be reasonably anticipated.

(10) The value of special circumstance items is not countable income if the items are paid for by donors.

(11) Home energy assistance is not countable income.

(12) All money received from an insurance settlement for destroyed exempt property is counted unless the income is used to purchase replacement property. If income received exceeds the money needed to replace the property, the difference is countable income.

(13) SSA reimbursements of Medicare premiums are not countable income.

(14) Payments from trust funds are countable income if the payments are not available on demand.

(15) FEP, Working Toward Employment Program payments, and Refugee Cash Assistance are not countable income.

(16) Only the portion of a Veteran's Administration check to which the client is legally entitled is countable income.

(17) When the entitlement amount of a check differs from the payment amount, the entitlement amount is countable income unless the deduction is involuntary.

(18) Deposits to joint checking or savings accounts are countable income, even if the deposits are made by a non-household member. Clients who dispute ownership of deposits to joint checking or savings accounts shall be given an opportunity to prove that the deposits do not represent income to them. Funds that are successfully disputed are not countable income.

(19) The income of an alien's sponsor is not countable income.

(20) The interest earned from a sales contract on either or both the lump sum and installment payments is countable unearned income when it is received or made available to the client.

(21) Interest accrued on an Individual Development Account as defined in Sections 404-416 of Pub. L. No.105-285 effective October 27, 1998 shall not count as income.

R414-304-5. A, B and D Medicaid and A, B and D Institutional Medicaid Earned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.832, 1998 ed., and 20 CFR 416.1110 through 416.1112, 1999 ed., which are incorporated by reference. The department adopts Subsection 1612(b)(4)(A) and (B) of the Compilation of the Social Security Laws, in effect January 1, 1999, which is incorporated by reference.

(2) The Department shall allow SSI recipients, who have a plan for achieving self support approved by the Social Security Administration, to set aside income that allows them to purchase work-related equipment or meet self support goals. This income shall be excluded and may include earned and unearned income.

(3) Expenses relating to the fulfillment of a plan to achieve self-support shall not be allowed as deductions from income.

(4) For A, B and D Medicaid, earned income used to compute a needs-based grant is not countable.

(5) For A, B and D Institutional Medicaid, \$125 shall be deducted from earned income before contribution towards cost of care is determined.

(6) For A, B and D Institutional Medicaid impairment-related work expenses shall be allowed as an earned income deduction.

(7) Capital gains shall be included in the gross income from self-employment.

(8) To determine countable net income from self-employment, the state shall allow a 40 percent flat rate exclusion off the gross self-employment income as a deduction for business expenses. For self-employed individuals who have actual allowable business expenses greater than the 40 percent flat rate exclusion amount, if the individual provides verification of the actual expenses, the self-employment net profit amount will be calculated using the same deductions that are allowed under federal income tax rules.

(9) No deductions shall be allowed for the following business expenses:

(a) transportation to and from work;

(b) payments on the principal for business resources;

(c) net losses from previous tax years;

(d) taxes;

(e) money set aside for retirement;

- (f) work-related personal expenses;
- (g) depreciation.
- (10) Net losses of self-employment from the current tax year may be deducted from other earned income.
- (11) Earned income paid by the U.S. Census Bureau to temporary census takers shall be excluded for any A, B, or D category programs that use a percentage of the federal poverty guideline as an eligibility income limit.

R414-304-6. Family Medicaid and Family Institutional Medicaid Earned Income Provisions.

(1) The Department adopts 42 CFR 435.725 through 435.832, 1998 ed. and 45 CFR 233.20(a)(6)(iii) through (iv), 233.20(a)(6)(v)(BA), 233.20(a)(6)(vi) through (vii), and 233.20(a)(11), 1999 ed., which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Full-time student" means a person enrolled for the number of hours defined by the particular institution as fulfilling full-time requirements.

(b) "Part-time student" means a person who is enrolled for at least one-half the number of hours or periods considered by the institution to be customary to complete the course of study within the minimum time period. If no schedule is set by the school, the course of study must be no less than an average of two class periods or two hours a day, whichever is less.

(c) "School attendance" means enrollment in a public or private elementary or secondary school, a university or college, vocational or technical school or the Job Corps, for the express purpose of gaining skills that will lead to gainful employment.

(d) "Full-time employment" means an average of 100 or more hours of work a month or an average of 23 hours a week.

(e) "Aid to Families with Dependent Children" (AFDC) means a state plan for aid that was in effect on June 16, 1996.

(f) "1931 Family Medicaid" means a medical assistance program that uses the AFDC eligibility criteria in effect on June 16, 1996 along with any subsequent amendments in the State Plan, except that 1931 Family Medicaid eligibility for recipients of TANF cash assistance follows the eligibility criteria of the Family Employment Program.

(g) "Temporary Assistance to Needy Families" (TANF) means a grant program providing financial assistance to eligible families with dependent children. It is also referred to as Family Employment Program (FEP).

(3) The income of a dependent child is not countable income if the child is:

- (a) in school or training full-time;
- (b) in school or training part-time, if employed less than 100 hours a month;
- (c) in JTPA.

(4) For Family Medicaid the 30 and 1/3 deduction is allowed if the wage earner has received a TANF financial payment or 1931 Family Medicaid in one of the four previous months and this disregard has not been exhausted.

(5) To determine countable net income from self-employment, the state shall allow a 40 percent flat rate exclusion off the gross self-employment income as a deduction for business expenses. For self-employed individuals who have actual allowable business expenses greater than the 40 percent flat rate exclusion amount, if the individual provides verification of the actual expenses, the self-employment net profit amount will be calculated using the same deductions that are allowed under federal income tax rules.

(6) Items such as depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods, are not business expenses.

(7) For Family Medicaid, the Department shall deduct child care costs from the earned income of clients working 100 hours or more in a calendar month. A maximum of up to \$200.00 per child under age 2 and \$175.00 per child age 2 and older may be deducted. A maximum of up to \$160.00 per child under age 2 and \$140.00 per child age 2 and older a month may be deducted from the earned income of clients working less than 100 hours in a calendar month.

(8) For Family Institutional Medicaid, the Department shall deduct child care costs from the earned income of clients working 100 hours or more in a calendar month. A maximum of up to \$160 a month per child may be deducted. A maximum of up to \$130 a month shall be deducted from the earned income of clients working less than 100 hours in a calendar month.

(9) Earned income paid by the U.S. Census Bureau to temporary census takers shall be excluded for any family Medicaid programs that use a percentage of the federal poverty guideline as an eligibility income limit, and for determining eligibility for 1931 Family Medicaid.

(10) Under 1931 Family Medicaid, for households that pass the 185% gross income test, if net income does not exceed the applicable BMS, the household shall be eligible for 1931 Family Medicaid. No health insurance premiums or medical bills shall be deducted from gross income to determine net income for 1931 Family Medicaid.

(11) For Family Medicaid recipients who otherwise meet 1931 Family Medicaid criteria, who lose eligibility because of earned income that does not exceed 185% of the federal poverty guideline, the state shall disregard earned income of the specified relative for six months to determine eligibility for 1931 Family Medicaid. Before the end of the sixth month, the state shall conduct a review of the household's earned income. If the earned income exceeds 185% of the federal poverty guideline, the household will be eligible to receive Transitional Medicaid following the provisions of R414-303 as long as it meets all other criteria.

After the first six months of disregarding earned income, if the average monthly earned income of the household does not exceed 185% of the federal poverty guideline for a household of the same size, the state shall continue to disregard earned income for an additional six months to determine eligibility for 1931 Family Medicaid. In the twelfth month of receiving such income disregard, if the household continues to have earned income, the household will be eligible to receive Transitional Medicaid following the provisions of R414-303 as long as it meets all other criteria.

R414-304-7. A, B and D Medicaid and Family Medicaid Income Deductions.

(1) The Department adopts 42 CFR 435.831, 1998 ed., which is incorporated by reference.

(2) The Department shall allow health insurance premiums providing coverage for anyone in the family or the BMS as deductions in the month of payment. The entire payment shall be allowed as a deduction and will not be prorated. The Department shall not allow health insurance premiums as a deduction for determining eligibility for the poverty-related medical assistance programs or 1931 Family Medicaid.

(3) Medicare premiums shall not be allowed as deductions if the state reimburses the client.

(4) Medical expenses shall be allowed as deductions only if the expenses meet all of the following conditions:

(a) The medical service was received by the client, client's spouse, parent of an unemancipated client or unemancipated sibling of an unemancipated client, a deceased spouse or a deceased dependent child.

(b) The medical bill shall not be paid by Medicaid or a third party.

(c) The medical bill remains unpaid or was paid during the month of application or at anytime in the three months immediately preceding the month of application. The date the medical service was provided on an unpaid expense does not matter.

(5) A medical expense shall not be allowed as a deduction more than once.

(6) A medical expense allowed as a deduction must be for a medically necessary service. The Department of Health shall be responsible for deciding if services are not medically necessary.

(7) The Department shall not allow as a medical expense, co-payments required under the State Medicaid Plan that are owed or paid by the client to receive Medicaid-covered services.

(8) To determine countable income for the 100% poverty-related Aged and Disabled Medicaid programs, the Department shall deduct \$8 from the individual's income, or from the combined income of the individual and the individual's spouse before making other allowable deductions.

~~(8)9~~ For poverty-related medical assistance, an individual or household shall be ineligible if countable income exceeds the applicable income limit. Medical costs are not allowable deductions for determining eligibility for poverty-related medical assistance programs. No spenddown shall be allowed to meet the income limit for poverty-related medical assistance programs.

~~(9)10~~ As a condition of eligibility, clients must certify on Form 1049B that medical expenses in the benefit month are expected to exceed the spenddown amount. The client must do this when spenddown starts, at each review, and when the client chooses a different spenddown option. If medical expenses are less than or equal to the spenddown, the client shall not be eligible for that month. The client may elect to use allowable medical expenses the client still owes from previous months to reduce the spenddown so that expected medical expenses for the benefit month exceed the remaining spenddown owed.

~~(10)11~~ Pre-paid medical expenses shall not be allowed as deductions.

~~(11)12~~ The Department elects not to set limits on the amount of medical expenses that can be deducted.

~~(12)13~~ Clients may choose to meet their spenddown obligation by incurring medical expenses or by paying a corresponding amount to the Department.

~~(13)14~~ For A, B and D Medicaid institutional costs shall be allowed as deductions if the services are medically necessary. The Department of Health shall be responsible for deciding if services for institutional care are not medically necessary.

~~(14)15~~ No one shall be required to pay a spenddown of less than \$1.

~~(15)16~~ Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in an HMO. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county. Bills for mental health

services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.

R414-304-8. Medicaid Work Incentive Program Income Deductions.

(1) The Department shall allow the provisions found in R414-304 (1) through (3) and (14).

(2) The Department shall allow the following deductions from income in determining net income that is compared to 250% of the federal poverty guideline:

(a) \$20 from unearned income. If there is less than \$20 in unearned income, deduct the balance of the \$20 from earned income;

(b) \$65 plus one have the remainder of earned income.

(3) For the Medicaid Work Incentive Program, an individual or household shall be ineligible if countable income exceeds the applicable income limit. Health insurance premiums and medical costs are not allowed as deductions from income before comparing countable income to the applicable limit.

(4) Health insurance premiums paid by the Medicaid Work Incentive Program individual to purchase health insurance for themselves or other family members in the household shall be allowed as a deduction from income before determining the buy-in premium.

(5) An eligible individual may meet the buy-in premium with cash.

R414-304-9. A, B, and D Institutional Medicaid and Family Institutional Medicaid Income Deductions.

(1) The Department adopts 42 CFR 435.725 and 435.726, 1998 ed., which are incorporated by reference. The Department adopts Subsection 1902(r)(1) and 1924 of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Family member" means a son, daughter, parent, or sibling of the client or the client's spouse who lives with the spouse.

(b) "Dependent" means earning less than \$2,000 a year, not being claimed as a dependent by any other individual, and receiving more than half of one's annual support from the client or the client's spouse.

(3) Health insurance premiums:

(a) For institutionalized and waiver eligible clients, the Department shall allow health insurance premiums only for the institutionalized or waiver eligible client and only if paid with the institutionalized or waiver eligible client's funds. Health insurance premiums shall be allowed as a deduction in the month due. The payment shall not be pro-rated.

(b) The Department shall allow the portion of a combined premium, attributable to the institutionalized or waiver-eligible client, as a deduction if the combined premium includes a spouse or dependent family member and is paid from the funds of the institutionalized or waiver eligible client.

(4) Medicare premiums shall not be allowed as deductions if the state pays the premium or reimburses the client.

(5) Medical expenses shall be allowed as deductions only if the expenses meet all of the following conditions:

(a) the medical service was received by the client;

(b) the unpaid medical bill shall not be paid by Medicaid or a third party;

(c) the paid medical bill can be allowed only in the month paid. No portion of any paid bill can be allowed after the month of payment.

(6) A medical expense shall not be allowed as a deduction more than once.

(7) A medical expense allowed as a deduction must be for a medically necessary service. The Department of Health shall be responsible for deciding if services are not medically necessary.

(8) Pre-paid medical expenses shall not be allowed as deductions.

(9) The Department shall not allow as a medical expense, co-payments required under the State Medicaid Plan that are owed or paid by a client to receive Medicaid-covered services.

(10) The Department elects not to set limits on the amount of medical expenses that can be deducted.

(11) Institutionalized clients are to contribute all countable income remaining after allowable deductions to the institution as their contribution to the cost of their care.

(12) The personal needs allowance shall be equal to \$45.

(13) Except for an individual eligible for the Personal Assistance Waiver, an individual receiving assistance under the terms of a Home and Community-Based Services Waiver shall be eligible to receive a deduction for a non-institutionalized, non-waiver-eligible spouse and dependent family member as if that individual were institutionalized.

(14) Income received by the spouse or dependent family member shall be counted in calculating the deduction if that type of income is countable to determine Medicaid eligibility. No income disregards shall be allowed. Certain needs-based income and state supplemental payments shall not be counted in calculating the deduction. Tribal income shall be counted.

(15) If the income of a spouse or dependent family member is not reported, no deduction shall be allowed for the spouse or dependent family member.

(16) A client shall not be eligible for Medicaid coverage if medical costs are not at least equal to the contribution required towards the cost of care.

(17) To determine a deduction for a community spouse, the standard utility allowance for households with heating costs shall be equal to \$150. For households without heating costs, actual utility costs shall be used. The maximum allowance for a telephone bill is \$20. Clients shall not be required to verify utility costs more than once in a certification period.

(18) Medicaid covered medical costs incurred in a current benefit month cannot be used to meet spenddown when the client is enrolled in an HMO. Bills for mental health services incurred in a benefit month cannot be used to meet spenddown if the client will be eligible for Medicaid and lives in a county which has a single mental health provider under contract with Medicaid to provide services to all Medicaid clients who live in that county. Bills for mental health services received in a retroactive or application month that the client has fully-paid during that time can be used to meet spenddown as long as the services were not provided by the mental health provider in the client's county of residence which is under contract with Medicaid to provide services to all Medicaid clients.

R414-304-10. Budgeting.

(1) The Department adopts 42 CFR 435.601 and 435.640, 1998 ed., which are incorporated by reference. The Department adopts 45

CFR 233.20(a)(3)(iii), 233.31, and 233.33, 1998 ed., which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "Best estimate" means that income is calculated for the upcoming certification period based on current information about income being received, expected income deductions, and household size.

(b) "Prospective eligibility" means that eligibility is determined each month for the immediately following month based on a best estimate of income.

(c) "Prospective budgeting" is the process of calculating income and determining eligibility and spenddown for future months based on the best estimate of income, deductions, and household size.

(d) "Income averaging" means using a history of past income and expected changes, and averaging it over a determined period of time that is representative of future monthly income.

(e) "Income anticipating" means using current facts regarding rate of pay and number of working hours to anticipate future monthly income.

(f) "Income annualizing" means using total income earned during one or more past years, or a shorter applicable time period, and anticipating any future changes, to estimate the average annual income. That estimated annual income is then divided by 12 to determine the household's average monthly income.

(g) "Factoring" means that a monthly amount shall be determined to take into account the months of pay where an individual receives a fifth paycheck when paid weekly or a third paycheck when paid every other week. Weekly income shall be factored by multiplying the weekly amount by 4.3 to obtain a monthly amount. Income paid every other week shall be factored by 2.15 to obtain a monthly amount.

(h) "Reportable income changes" are those that cause income to change by more than \$25. All income changes must be reported for an institutionalized individual.

(3) The Department shall do prospective budgeting on a monthly basis.

(4) A best estimate of income based on the best available information shall be an accurate reflection of client income in that month.

(5) The Department shall use the best estimate of income to be received or made available to the client in a month to determine eligibility and spenddown.

(6) Methods of determining the best estimate are income averaging, income anticipating, and income annualizing.

(7) The Department shall count income in the following manner:

(a) For QMB, SLMB, QI, Medicaid Work Incentive Program, and A, B, D, and Institutional Medicaid income shall be counted as it is received. Income that is received weekly or every other week shall not be factored.

(b) For Family Medicaid programs, income that is received weekly or every other week shall be factored.

(8) Lump sums are income in the month received. Any amount of a lump sum remaining after the end of the month of receipt is a resource. Lump sum payments can be earned or unearned income.

(9) Income paid out under a contract shall be prorated to determine the countable income for each month. Only the prorated amount shall be used to determine spenddown or eligibility for a month. If the income will be received in fewer months than the

contract covers, the income shall be prorated over the period of the contract. If received in more months than the contract covers, the income shall be prorated over the period of time in which the money will be received.

(10) To determine the average monthly income for farm and self-employment income, the Department shall determine the annual income earned during one or more past years, or other applicable time period, and factor in any current changes in expected income for future months. Less than one year's worth of income may be used if this income has recently begun, or a change occurs making past information unrepresentative of future income. The monthly average income shall be adjusted during the year when information about changes or expected changes is received by the Department.

(11) Student income received other than monthly shall be prorated to determine the monthly countable income. This is done by dividing the total amount by the number of calendar months classes are in session.

(12) Income from Indian trust accounts not exempt by federal law shall be prorated to determine the monthly countable income when the income varies from month to month, or it is received less often than monthly. This is done by dividing the total amount by the number of months it covers.

(13) Eligibility for retroactive assistance shall be based on the income received in the month for which retroactive coverage is sought. When income is being prorated or annualized, then the monthly countable income determined using this method shall be used for retroactive benefit months, except when the income was not being received during, and was not intended to cover, the retroactive months.

R414-304-11. Income Standards.

(1) The Department adopts Sections 1902(a)(10)(E), 1902(l), 1902(m), 1903(f) and 1905(p) of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) The Aged and Disabled poverty-related Medicaid income standard shall be calculated as 100% of the federal non-farm poverty guideline. If an Aged or Disabled person's income exceeds this amount the current Medicaid Income Standards (BMS) shall apply unless the disabled individual or a disabled aged individual has earned income. In this case follow the income standards for the Medicaid Work Incentive Program.

(3) The income standard for the Medicaid Work Incentive Program shall be equal to 250% of the federal poverty guideline for a family of the size involved. If income exceeds this amount the current Medicaid Income Standards (BMS) shall apply. The Department shall charge a premium equal to 20% of the countable income of the Medicaid Work Incentive Program eligible individual, or the eligible individual and eligible spouse, when this income exceeds 100% of the federal poverty guideline for the number of eligible individuals. When the eligible individual is a minor child, the Department shall charge a premium equal to 20% of the child's countable income when this income exceeds 100% of the federal poverty guideline for a one person household.

(4) The income limit for pregnant women, and children under one year of age, shall be equal to 133% of the federal poverty guideline for a family of the size involved. If income exceeds this amount, the current Medicaid Income Standards (BMS) shall apply.

(5) The current Medicaid income standards (BMS) are as follows:

TABLE	
Household Size	Medicaid Income Standard (BMS)
1	382
2	468
3	583
4	683
5	777
6	857
7	897
8	938
9	982
10	1,023
11	1,066
12	1,108
13	1,150
14	1,192
15	1,236
16	1,277
17	1,320
18	1,364

R414-304-12. A, B and D Medicaid, QMB, SLMB, and QI Filing Unit.

(1) The Department adopts 42 CFR 435.601 and 435.602, 1998 ed., which are incorporated by reference. The Department adopts Subsections 1902(l)(1), (2), and (3), 1902(m)(1) and (2), and 1905(p) of the Compilation of the Social Security Laws, in effect January 1, 1999, which are incorporated by reference.

(2) The following individuals shall be counted in the BMS for A, B and D Medicaid:

- (a) the client;
- (b) a spouse who lives in the same home, if the spouse is eligible for A, B, or D Medicaid, and is included in the coverage;
- (c) a spouse who lives in the same home, if the spouse has deemable income above the allocation for a spouse.

(3) The following individuals shall be counted in the household size for A or D poverty-related Medicaid:

- (a) the client;
- (b) a spouse who lives in the same home, if the spouse is aged, blind, or disabled, regardless of the type of income the spouse receives, or whether the spouse is included in the coverage;
- (c) a spouse who lives in the same home, if the spouse is not aged, blind or disabled, but has deemable income above the allocation for a spouse.

(4) The following individuals shall be counted in the household size for a QMB, SLMB, or QI case:

- (a) the client;
- (b) a spouse living in the same home who receives Part A Medicare or is Aged, Blind, or Disabled, regardless of whether the spouse has any deemable income or whether the spouse is included in the coverage;
- (c) a spouse living in the same home who does not receive Part A Medicare and is not Aged, Blind, or Disabled, if the spouse has deemable income above the allocation for a spouse.

(5) The following individuals shall be counted in the household size for the Medicaid Work Incentive Program:

- (a) the client;
- (b) a spouse living in the same home;
- (c) parents living with a minor child;
- (d) children under age 18
- (e) children age 18, 19, or 20 if they are in school full-time,

(6) Eligibility for A, B and D Medicaid and the spenddown, if any; A and D poverty-related Medicaid; and QMB, SLMB, and QI programs shall be based on the income of the following individuals:

- (a) the client;
- (b) parents living with the minor client;
- (c) a spouse who is living with the client. Income of the spouse is counted based on R414-304-2.

(7) Eligibility for the Medicaid Work Incentive Program shall be based on income of the following individuals:

- (a) the client;
- (b) parents living with the minor client;
- (c) a spouse who is living with the client.

(8) If a person is "included" in the BMS, it means that family member shall be counted as part of the household and his or her income and resources shall be counted to determine eligibility for the household, whether or not that family member receives medical assistance.

(9) If a person is "included" in the household size, it means that family member shall be counted as part of the household to determine what income limit applies, regardless of whether that family member's income will be counted or whether that family member will receive medical assistance.

R414-304-13. Family Medicaid Filing Unit.

(1) The Department adopts 42 CFR 435.601 and 435.602, 45 CFR 206.10(a)(1)(iii), 233.20(a)(1) and 233.20(a)(3)(vi), 1998 ed., which are incorporated by reference.

(2) Except for determinations under 1931 Family Medicaid, any unemancipated minor child may be excluded from the Medicaid coverage group at the request of the specified relative responsible for the children. An excluded child shall be considered an ineligible child and shall not be counted as part of the household size for deciding what income limit will be applicable to the family. Income and resources of an excluded child shall not be considered when determining eligibility or spenddown.

(3) The Department shall not use a grandparent's income to determine eligibility or spenddown for a minor child, and the grandparent shall not be counted in the household size. A cash contribution from the grandparents received by the minor child or parent of the minor child is countable income.

(4) Except for determinations under 1931 Family Medicaid, if anyone in the household is pregnant, the unborn child shall be included in the household size. If a medical authority confirms that the pregnant woman will have more than one child, all of the unborn children shall be included in the household size.

(5) If a child is voluntarily placed in foster care and is in the custody of a state agency, the parents shall be included in the household size.

(6) Parents who have relinquished their parental rights shall not be included in the household size.

(7) If a court order places a child in the custody of the state, and the child is temporarily placed in an institution, the parents shall not be included in the household size.

(8) If a person is "included" in the household size, it means that family member shall be counted as part of the household and his or her income and resources shall be counted to determine eligibility for the household, whether or not that family member receives medical assistance. The household size determines which BMS level or, in the case of poverty-related programs, which poverty guideline level will apply to determine eligibility for the client or family.

R414-304-14. A, B and D Institutional and Waiver Medicaid and Family Institutional Medicaid Filing Unit.

(1) For A, B, and D institutional, and home and community-based waiver Medicaid, the Department shall not use income of the client's parents or the client's spouse to determine eligibility and spenddown.

(2) For Family institutional, and home and community-based waiver Medicaid programs, the Department adopts 45 CFR 206.10(a)(1)(vii), 1998 ed., which is incorporated by reference.

(3) The Department shall base eligibility and spenddown on the income of the client and the sponsor of an alien who is subject to deeming according to the rules described in 20 CFR 416.1166a, 1998 ed., which is incorporated by reference.

KEY: financial disclosure, income, budgeting

2001

Notice of Continuation February 6, 1998

26-18-1



Health, Health Systems Improvement, Emergency Medical Services

R426-5

Hospital Trauma Categorization Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24166

FILED: 10/26/2001, 14:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule implements recent statutory changes.

SUMMARY OF THE RULE OR CHANGE: Statutory references are updated. The verification, application and designation processes are clarified. Establishes the makeup and operational procedures for the Trauma System Advisory Committee. Implements trauma registry reporting requirements required by statute. Clarifies that a hospital cannot represent itself as a trauma center without being designated by the department.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a, Part 2a

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** All costs for the program this rule implements will be met within current budget and legislative appropriations. It does not require any action by any state agency outside of the Department of Health.

❖ **LOCAL GOVERNMENTS:** Costs for this rule will be reimbursed by the Department according to statute and legislative appropriation. Approximately \$42,000 annually will be provided to hospitals to comply with this rule. Calculating what percentage will be provided to hospitals operated by

local governments is not possible at this time. However, it is anticipated that it will be a small percentage of the total.

❖ **OTHER PERSONS:** Costs for this rule will be reimbursed by the Department according to statute and legislative appropriation. Approximately \$42,000 annually will be provided to hospitals to comply with this rule. Calculating what percentage will be provided to non-government hospitals is not possible at this time. However, it is anticipated that it will be nearly all of the total.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs for this rule will be reimbursed by the Department according to statute and legislative appropriation. Each hospital is reimbursed \$25 for each chart reviewed. The number of charts reviewed depends on the number of trauma cases that the hospital receives. The costs and amounts reimbursed to each hospital will vary from \$0 to \$10,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes implement statutory mandates and regulated businesses will be reimbursed for costs of reporting by the Department of Health. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
EMERGENCY MEDICAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jolene Whitney at the above address, by phone at 801-538-6290, by FAX at 801-538-6808, or by Internet E-mail at jwhitney@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Rod Betit, Executive Director

R426. Health, Health Systems Improvement, Emergency Medical Services.

R426-5. Statewide[Hospital] Trauma [Categorization] System Standards.

R426-5-1. Authority and Purpose.

(1) Authority - This rule is established under [~~Sections 26-8-4 and 26-8-5~~] Title 26, Chapter 8a, Part 2A, Statewide Trauma System, which authorizes the Department to:

(a) ~~establish and actively supervise a statewide trauma system; [The Department to develop hospital critical care categorization guidelines and treatment protocols for trauma]; and~~

(b) ~~designate each hospital that voluntarily requests a trauma center designation and meets the applicable requirements. [The EMS Committee to approve critical care categorization guidelines and treatment protocols and designate trauma care facilities consistent with the approved guidelines.]~~

(2) This rule provides standards for the categorization and designation of hospital Trauma Centers which will be of assistance to physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national guidelines, medical facility capabilities and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

R426-5-2. [Definitions] Trauma System Advisory Committee.

[— As used in R426-5:

— (1) ~~Categorization means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-8.~~

— (2) ~~Department means the Utah Department of Health.~~

— (3) ~~Director means the Executive Director of the Utah Department of Health.~~

— (4) ~~EMS Committee means The State Emergency Medical Services Committee.~~

— (5) ~~Inclusive Trauma System means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and prehospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.~~

— (6) ~~Level of care means the capabilities and commitment to the care of the trauma patient available within a specified facility.~~

— (7) ~~Patient means an individual who, as the result of illness or injury, needs immediate medical attention, whose physical or mental condition presents an imminent danger of loss of life or significant health impairment, or who may be otherwise incapacitated or helpless as a result of a physical or mental condition.~~

— (8) ~~Trauma Center means a hospital or consortium of hospitals that meets the standards set forth in R426-5 and is designated by the EMS Committee to function at a specified categorization level.~~

— (9) ~~Verification means determination by the EMS Committee that trauma centers have maintained and are in compliance with standards set forth in R426-5.~~

] (1) The trauma system advisory committee, created pursuant to 26-8a-251, shall be:

(a) broad and balanced across health care delivery systems; and

(b) conduct meetings in accordance with committee procedures established by the Department and other applicable statutes.

(2) The Department will establish the terms for each position on the committee.

(3) The Department shall appoint committee members to serve terms from one to four years.

(4) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.

(5) Causes for removal of a committee member include the following:

(a) more than two unexcused absences from meetings within 12 calendar months;

(b) more than three excused absences from meetings within 12 calendar months;

(c) conviction of a felony; or

(d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

R426-5-3. Trauma Center Categorization Guidelines.

(1) To establish a basis for trauma center categorization and designation, the Department shall utilize trauma center criteria established in the 1995 Utah Trauma System Plan as approved by the EMS committee. The criteria takes into consideration current national standards for trauma center categorization. The Department shall base trauma center designation on criteria established in the 1995 Utah Trauma System Plan to categorize and verify trauma centers. Upon the advice of the Trauma System Advisory Committee, the Department shall periodically review the criteria and consider national categorization guidelines to modify the criteria.

R426-5-4. Trauma Review [Committee] Team.

(1) The Department shall appoint a Trauma Review Team [Committee]. The team [committee] shall annually evaluate trauma centers and applicants for compliance to standards set in R426-5-2[3] for verification. The team [committee] shall report results to the [EMS Committee] Department. The team [committee] shall as a minimum be composed of the following persons:

- (a) one surgeon, knowledgeable in trauma;
- (b) one emergency physician;
- (c) one nurse; knowledgeable in trauma;
- (d) one hospital administrator; and
- (e) one Department representative.

(2) [With the exception of the Department representative, tenure shall be three years. Initial appointments for the physicians, nurse and hospital administrator shall be for three, two and one year(s), respectively. Committee members may be reappointed. A physician representative shall serve as committee chair.

(3) Trauma Review Team [Committee] members may [shall] not review their own hospitals. [When this situation arises, the Department shall appoint a temporary alternate member.]

R426-5-5. Trauma Center Categorization [Process].

The Department shall:

(1) Develop a survey document based upon the [F]trauma [C]center [C]criteria described in R426-3[5].

(2) Periodically survey all Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.

(3) Disseminate survey results to all Utah hospitals, and as appropriate, to [state] EMS [agencies] providers within the state and hospitals in nearby states which refer patients to Utah hospitals.

R426-5-6. Trauma Center Designation [Process].

(1) Hospitals wishing designation recognition shall complete a Department application as outlined in R426-5-7.

(2) The Department shall, upon receipt of the completed application and appropriate fees, verify compliance to the designation level sought in accordance with protocols established by the department.

(3) Trauma centers shall be designated for a period of three years unless the designation is rescinded by the Department for non-compliance to standards set forth in R426-5-7.

(4) The Department shall disseminate a list of designated trauma centers to all Utah hospitals, and state EMS agencies, and as appropriate, to hospitals in nearby states which refer patients to Utah hospitals.

(1) A hospital desiring to become voluntarily designated as a trauma center shall complete a Department application and verification process as outlined in R426-5-7.

(2) A hospital applying for voluntary designation as a trauma center, must have submitted trauma registry information to the Department, in a format approved by the Department, for one year prior to submitting an application for designation.

(3) The Department shall, upon receipt of the completed application and appropriate fees, verify compliance with the categorization level sought in accordance with the application, verification, and designation processes established by the Department. The Department may designate, deny, modify designation periods, modify level of designation, place conditions upon the designation, and issue a probationary designation.

(4) Upon meeting and maintaining the criteria and successfully completing the verification and application processes, the Department shall designate trauma centers for a period of three years unless the designation is rescinded by the Department for non-compliance to standards set forth in R426-5-3.

(5) The Department may revoke, suspend, place on probation, restrict, or modify a designation for failure to comply with standards R426-5-3 and the reporting requirements of R426-5-8.

(6) The Department shall disseminate a list of designated trauma centers to all Utah hospitals, licensed EMS providers, and hospitals in nearby states which refer patients to Utah hospitals.

R426-5-7. Trauma Center Verification [Process].

(1) All designated Trauma Centers desiring to remain designated, shall apply for verification by submitting the following information to the Department at least six months prior to the anniversary date of initial designation:

(a) A completed and signed application and appropriate fees for trauma center verification;

(b) A letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;

(c) The data specified under R426-5-8;

(d) The minutes of pertinent hospital committee meetings for the previous year as specified by the Trauma Review Subcommittee, for example, trauma conferences, surgical morbidity and mortality meetings, emergency department or trauma death audits.

(e) A brief narrative report of trauma outreach education activities for the previous year;

(f) A brief narrative report of trauma research activities for the previous year including protocols and publications.

(2) All trauma centers desiring to apply for verification shall submit the required application and appropriate fees to the Department no later than January 1.

(3) Upon receipt of a verification application from the Department, accompanied by the information specified under R426-

~~5-(7)(1)(a) through (f), the Trauma Review Committee shall conduct a review and report the results to the EMS Committee.~~

~~— (4) Every three years, the Level I and II Trauma Centers must submit written documentation detailing the results of an American College of Surgeons site visit.~~

~~— (5) Every three years from the date of initial designation or from a date specified by the Department, the Trauma Review Subcommittee shall conduct a formal site visit for each designated Level III, IV, or V trauma center and report the results to the EMS Committee.~~

~~— (6) The Department and the Trauma Review Committee may conduct activities with any designated trauma center to verify compliance with designation requirements which may include:~~

~~— (a) Site visits to observe, unannounced, an actual trauma resuscitation, including the care and treatment of a trauma patient.~~

~~— (b) Interview or survey prehospital care providers who frequent the trauma center, to ascertain that the pledged level of trauma care commitment is being maintained by the trauma center.~~

~~]~~ (1) A hospital desiring to be designated, shall apply for verification by submitting the following information to the Department:

~~— (a) a completed and signed Department or Department-approved application and appropriate fees for trauma center verification;~~

~~— (b) a letter from the hospital administrator attesting to the hospital's commitment to comply with current trauma center designation standards as applicable to the applicant's designation level;~~

~~— (c) the minutes of pertinent hospital committee meetings for the previous year for review by the Trauma Review Team, for example, trauma conferences, surgical morbidity and mortality meetings, emergency department or trauma death audits.~~

~~— (d) a brief narrative report of trauma outreach education and injury prevention activities for the previous year; and~~

~~— (e) documentation that verifies required training and education for trauma service personnel, on-call schedules, trauma diversion records, transfer agreements and required equipment for review by the trauma review team.~~

~~(2) An applicant must also:~~

~~— (a) be current in the submission to the Department, of the data specified under R426-5-8 and demonstrate use of the data for quality assurance purposes; and~~

~~— (b) provide any additional information upon request of the Department or site visit team which may verify the applicant's ability to meet all criteria for the designation level requested;~~

~~— (3) Level I trauma centers must provide a brief narrative of trauma research activities for the previous year.~~

~~— (4) A designated trauma center that desires to renew its designation must submit the complete application for designation to the Department no less than three months prior to the expiration date.~~

~~— (5) Upon receipt of a complete application, the Department shall appoint a Trauma Review Team to conduct a site visit and report the results to the Department.~~

~~— (6) An applicant for a Level I or II Trauma Center must allow representatives from the Department and Trauma Review Team to be present for an American College of Surgeons site visit to verify the categorization level. The applicant shall submit to the Department the written documentation detailing the results of the American College of Surgeons site visit.~~

~~— (7) The Trauma Review Team shall verify the categorization~~

level and conduct a formal site visit for each applicant for Level III, IV, or V trauma center designation and report the results to the Department

(8) The Department and the Trauma Review Team may verify compliance by conducting:

(a) unannounced site visits to observe an actual trauma resuscitation, including the care and treatment of a trauma patient; and

(b) interviews or surveys of pre-hospital care providers who frequent the trauma center, to ascertain that the pledged level of trauma care commitment is being maintained by the trauma center.

R426-5-8. Data Requirements for an Inclusive Trauma System.

~~(1[-])~~ All hospitals and ~~[D]~~designated trauma centers shall collect and quarterly submit to the Department the Trauma Registry information necessary to maintain an inclusive trauma system. After July 1, 2003, hospitals not designated as trauma centers may choose to discontinue collecting information for the Trauma Registry. However, non-designated hospitals must submit information to the trauma registry for all periods up to July 1, 2003. A hospital desiring to discontinue with the Trauma Registry and related quality assurance program, shall return to the Department all software, manuals and other materials purchased by the Department relating to the trauma registry. Each trauma center must continue to submit Trauma Registry information and remain current with the submissions of information in order to maintain designation status.

(2) Each hospital required to submit trauma registry information shall submit the information to the Department for all patients who meet the following inclusion criteria: [The inclusion criteria for a trauma patient is as follows]:

(a)(i) ICD9 Diagnostic Codes between 800 and 959.9 (trauma); [-ø]

(ii) 760.5 (fetus or newborn affected by trauma); [-ø]

(iii) 641.8 (antepartum history due to trauma); or

(iv) 518.5 (pulmonary embolism due to trauma); and

(b) [A]any of the following patient conditions:

(i) admitted to the hospital for 48 hours or longer;

(ii) transferred in or out of your hospital by an EMS provider;

(iv) died from traumatic injury;

(v) all air ambulance transports (including death in transport and patients flown in but not admitted to the hospital).

(3) Notwithstanding, the requirements in subsection (2), hospitals shall exclude from the trauma registry, the following information: patients who are 65 years of age or older and have been injured due to a ground level fall in addition to one of the following isolated injuries diagnosis codes:

(a) 820.0-820.9 isolated hip fractures;

(b) 808.20 isolated fracture of the pelvis;

(c) 805 isolated fracture of vertebral column without mention of spinal cord injury; or

(d) 910-924 blister, contusion, abrasions, and insect bites.

(4) Each hospital shall submit the trauma registry information [The information shall be] in a standardized electronic format specified by the Department, unless approved by the Department to submit copies of patient records, and shall [which] include[s]:

(i) Demographics:

Database Record Number (tracking number)

Institution ID number

Medical Record Number

Social Security Number

Patient Home Zip Code

Sex
 Date of Birth
 Age Number and Units
 (ii) Injury: Event
 Date of Injury
 Time of Injury
 City of Injury (town)
 State of Injury (county/state)
 Zip Code of Injury
 Blunt, Penetrating, or Burn Injury (trauma type)
 Cause of Injury Description (injury details)
 Cause of Injury Code
 Cause of Injury E-code
 Site/Location of Injury
 Work Related Injury (y/n)
 (iii) Prehospital: (EMS Transport/Scene)
 Name of EMS Service
 Transport Origin Scene or Referring Facility
EMS notification time and date
Response time and date
EMS departure from scene, with patient, time and date
EMS destination time and date
Scene pulse rate
Scene respiratory rate
Scene systolic blood pressure
Scene eye opening response
Scene verbal response
Scene motor response
GCS qualifiers
GCS total
Scene procedures
 Trip Form Obtained (y/n)
 Arrival Time at (First) Hospital
 Arrival Date at Hospital
 (iv) Referring Hospital:
 Transfer from Another Hospital (y/n)
 Name or Code
 Arrival Date
 Arrival Time
 Discharge Date
 Discharge time
 Transfer Mode
 Admitted or ER
 Procedures
 Pulse
 Capillary Refill
 Respiratory Rate
 Respiratory Effort
 Blood Pressure
 Eye Movement
 Verbal Response
 Motor Response
 Glas[e]gow Coma Score Total
 Revised Trauma Score Total
 (v) Emergency Department Information:
 Mode of Transport
 Arrival Date
 Arrival Time
 Discharge Time
 Discharge Date
 Pulse

Capillary Refill
 Respiratory Rate
 Respiratory Effort
 Blood Pressure
 Eye Movement
 Verbal Response
 Motor Response
 Arrival Glas[e]gow Coma Score Total
 Revised Trauma Score Total
 (vi) Emergency Department Treatment:
 Procedures Done (pick list)
 Paralytics used prior to GCS (y/n)
 Disposition
 (vii) Admission Information:
 Admit from ER or Direct Admit
 Admitted from what Source
 Time of Hospital Admission
 Date of Hospital Admission
 (viii) Hospital Diagnosis:
 ICD9 Diagnosis Codes
 AIS 90 or 95 Used?
 AIS Score for Diagnosis (calculated)
 Injury Severity Score
 (ix) Operations/Procedures:
 ICD9 Codes
 (x) Quality Assurance Indicators:
 None
 (xi) Complications:
 None
 (xii) Outcome:
 Discharge Time
 Discharge Date
 Total Days Length of Stay
 Disposition from Hospital
 Destination Facility
 [~~GCS~~Functional] Outcome Score
 (xiii) Charges:
 Payment Sources

R426-5-9. Noncompliance to Standards.

(1) The Department may reduce facility designation to a lower level or rescind the designation for noncompliance to standards adopted under R426-~~5~~2.

(2) No hospital, clinic, health care provider or health care delivery system may profess or advertise to be a trauma center unless it is designated by the Department pursuant to this rule.

R426-5-10. Statutory Penalties.

~~[—A person who violates this rule is subject to the provisions of Title 26, Chapter 23, which provides for a penalty of up to \$5,000 per violation or a Class B misdemeanor on the first offense and a Class A misdemeanor on a subsequent offense.]~~

] Pursuant to Section 26-23-6, any person that violates any provision of this rule may be assessed an administrative civil money penalty not to exceed \$500.00 upon an administrative finding of a first violation and up to \$2,500.00 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court, which may not exceed \$5,000.00 or a class B misdemeanor for the first violation and or a class A misdemeanor for any subsequent similar violation within two years.

KEY: emergency medical services
September 23, 1997
Notice of Continuation December 9, 1997
26-8

▼ ————— ▼

**Health, Health Systems Improvement,
Licensing
R432-500
Freestanding Ambulatory Surgical
Centers Rules**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24165

FILED: 10/26/2001, 14:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Clarifies that the patient and surgeon will be notified prior to surgery of who will be administering anesthesia.

SUMMARY OF THE RULE OR CHANGE: Subsection R432-500-20(7) provides that the patient and surgeon will be notified prior to surgery of who will be administering anesthesia.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: Cost of copying the rule and distributing the rule to affected ambulatory surgery centers will be approximately \$130.

❖LOCAL GOVERNMENTS: Local governments do not operate ambulatory surgery centers and should not realize any costs.

❖OTHER PERSONS: There should be no cost or savings to the affected parties since the requirement to inform the patient and operating surgeon conforms to current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The notification requirement in this rule should not impose any cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule reflects current practice and should not have any fiscal impact. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT, LICENSING
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at dwynkoop@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Rod Betit, Executive Director

R432. Health, Health Systems Improvement, Licensing.

R432-500. Freestanding Ambulatory Surgical Center Rules.

R432-500-20. Anesthesiology Services.

(1) There shall be facilities and equipment for the administration of anesthesia services commensurate with the clinical and surgical procedures planned for the facility.

(2) The medical staff shall appoint a medical director of anesthesia services who shall meet the following requirements:

(a) be licensed to practice medicine in Utah;

(b) have training and expertise in anesthesia services offered to ensure adequate supervision of patient care.

(3) The medical director of anesthesia services shall implement, coordinate, and ensure the quality of anesthesia services provided in the facility including the implementation of written policies and protocols approved by the medical staff which clearly define the responsibilities and privileges of qualified anesthesiologists.

(4) Only qualified anesthesiologists shall provide anesthesia care.

(5) During the surgical procedure, a qualified anesthesiologist shall be responsible for the following:

(a) monitor, by continuous presence in the operating room (except for short periods of time for personal safety, such as radiation exposure), a patient who is undergoing a surgical procedure and who is receiving general anesthetics, regional anesthetics, or monitored anesthesia care;

(b) continually evaluate a patient's oxygenation, ventilation, and circulation, and have means available to measure temperature during administration of all anesthetics.

(6) The non-physician qualified anesthesiologists shall provide patient specific anesthesia services upon the request of a licensed professional, as defined in R432-500-2(e). The licensed professional shall be involved in each patient's preoperative assessment and shall ensure that the non-physician anesthesiologist is providing anesthesia services in a manner that specifically addresses the needs of each individual patient.

(7) The patient and operating surgeon shall be informed prior to surgery ~~[if anesthesia services will be performed by a non-physician qualified anesthesiologist]~~ of who will be administering anesthesia.

(8) When the operating team consists entirely of non-physicians, a physician shall be immediately available in the facility to respond to medical emergencies.

(9) Policies and Procedures.

(a) Written anesthesia service policies shall include the following:

(i) Anesthesia care policies and procedures for preanesthesia evaluation, intraoperative care including documenting a time-based

record of events, and postanesthesia care;

(ii) A qualified anesthetist, shall conduct a preanesthesia evaluation, and document the evaluation in the patient's medical record prior to inducing anesthesia;

(iii) The preanesthesia evaluation shall include the following information:

- (A) planned anesthesia choice;
- (B) assessment of anesthesia risk;
- (C) anticipated surgical procedure;
- (D) current medications and previous untoward drug experiences;
- (E) prior anesthetic experiences;
- (F) any unusual potential anesthetic problems.

(b) A qualified anesthetist shall remain with the patient until the patient's status is stable. The qualified anesthetist or the anesthetist's qualified designee shall remain with the patient until the patient's protective reflexes have returned to normal, and it is determined safe as defined in facility policy.

(c) The medical director of anesthesia services shall define the mechanism for the release of patients from postanesthesia care. Each patient who is admitted to an ambulatory surgical facility, and who receives other than unsupplemented local anesthesia, shall be discharged in the company of a responsible adult.

(10) Medicaid certified facilities shall comply with the 42 CFR 415.110 and 42 CFR 416.42 (December 30, 1999) which is incorporated by reference.

(11) The use of flammable anesthetic agents for anesthesia or for the pre-operative preparation of the surgical field is prohibited.

(12) The anesthetic equipment shall be inspected and tested by the person administering anesthesia before use in accordance with the facility policy.

**KEY: health facilities
2001**

**Notice of Continuation December 15, 1997
26-21-5
26-21-16**

▼ ————— ▼

Labor Commission, Occupational Safety and Health **R614-1-4** Incorporation of Federal Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 24164
FILED: 10/26/2001, 10:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment incorporates recent changes in federal Occupational Safety and Health Administration (OSHA) standards, published at 29 CFR Parts 1904 and 1952, which address the recording and reporting of occupational injuries and illnesses.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment consolidates instructions and simplifies forms to record occupational illnesses and injuries. It defines terms and provides additional guidance. It provides for greater employee involvement, requires management certification of records, and adds information regarding falsification penalties. It also adds the disclaimer that an employer's report of an injury is not an admission of liability and prohibits employers from discriminating against employees for reporting injuries and illnesses. Section 1904.8 ("Additional Recording Criteria for Needlestick and Sharps Injuries") deals with recording of occupational injuries caused by needles or other sharp objects that may be contaminated with infectious materials. Specifically, employers must log all work-related needlestick and sharps injuries involving objects which may be contaminated with infectious material, subject to certain procedures designed to protect employee privacy. Section 1904.10 ("Recording Criteria for Cases Involving Occupational Hearing Loss") deals with recording of occupational hearing loss.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-6-202

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: FR Vol. 66, No. 13, Friday, January 19, 2001, Pages 5916 to and including 6135, "Occupational Injury and Reporting Requirements"

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Commission does not anticipate that the amendment will result in any additional costs or savings in administering or enforcing the standard. Regarding the impact of the proposed amendment on State costs as an employer, the amendment makes only minor changes to the recordkeeping requirements already imposed by current law. Consequently, any effect on the state budget should be negligible.

❖ **LOCAL GOVERNMENTS:** The proposed amendment makes only minor changes to the recordkeeping requirements already imposed on local governments by current law. Consequently, any effect on local government budgets should be negligible.

❖ **OTHER PERSONS:** The proposed amendment makes only minor changes to the recordkeeping requirements already imposed on employers by current law. Consequently, any effect on other persons budgets should be negligible.

COMPLIANCE COSTS FOR AFFECTED PERSONS: OSHA estimates that, on average, annual costs of compliance with this rule per firm are less than \$58.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By consolidating and simplifying forms, businesses should experience some reduction in compliance costs that will largely offset any other costs associated with the rule. Consequently, fiscal impact on businesses should be negligible.

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

LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at icmain.wadams@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: R Lee Ellertson, Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-4. Incorporation of Federal Standards.

A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, 2000, edition are incorporated by reference.

2. FR Vol. 65, No. 208, Thursday, October 26, 2000, Pages 64281 to and including 64295, "Consultation Agreements: Changes to Consultation Procedures; Final Rule" is incorporated by reference.

3. FR Vol. 66, No. 12, Thursday, January 18, 2001, Pages 5318 to and including 5325, "Occupational Exposure to Bloodborne Pathogens; Needlesticks and Sharps Injuries; Final Rule" is incorporated by reference.

4. FR Vol. 66, No. 13, Friday, January 19, 2001, Pages 5916 to and including 6135, "Occupational Injury and reporting Requirements; Final Rule" is incorporated by reference.

B. Construction Standards.

1. Section 29 CFR 1926.20 through the end of part 1926, of the July 1, 2000, edition is incorporated by reference.

KEY: safety

February 1, 2001

34A-6

Lieutenant Governor, Elections

R623-1

Lieutenant Governor's Procedure for Regulation of Lobbyist Activities

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24174

FILED: 10/30/2001, 15:13

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to clarify registration procedures as a result of Administrative Hearing numbers 90002 and 90005. This rule change also makes technical amendments.

SUMMARY OF THE RULE OR CHANGE: This rule change clarifies that a lobbyist license is valid for two years unless notice is given to the lieutenant governor's office stating otherwise. It also clarifies that a lobbyist is responsible to notify the lieutenant governor's office of any change in circumstances. This rule includes a provision for any registration and notification to be done electronically. This rule change also makes technical changes so as not to conflict with current statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 36-11-404 and Subsection 36-11-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** This rule change includes an amendment which allows lobbyists to register and change clients electronically, which is a cost to the lieutenant governor's office. The cost of the development of this electronic program is approximately \$36,000. This does not include administrative costs such as staff time. This program is currently in development. However, the cost of this program is not a direct result of the rule amendment. This program has other functions that are available to lobbyists (such as financial disclosure.) The lieutenant governor's office will proceed with the development of this electronic program notwithstanding the status of this rule change. It is also anticipated that use of such a program will create a savings to the budget in saving on copying and other administrative costs.

❖**LOCAL GOVERNMENTS:** Local governments are not subject to lobbyist registration or disclosure. Therefore, this amendment creates no additional costs or savings to local government.

❖**OTHER PERSONS:** Other persons, such as lobbyists, will not incur costs as a result of this amendment. This amendment only clarifies the responsibilities that lobbyists currently have.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment created no additional costs or savings to affected persons (lobbyists).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendments will have no fiscal impact on businesses or their lobbyist. This purpose of this amendment is simply to clarify what the lieutenant governor's office considers the period of licensure unless the office is otherwise notified. While it may put an additional notification requirement on some lobbyists who have changes to make during the year, this can be accomplished as a part of regular correspondence required by statute or submitted electronically.

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

LIEUTENANT GOVERNOR
ELECTIONS
Room 115 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Amy Naccarato or Jennifer Terrill at the above address, by phone at 801-538-1041 or 801-538-1041, by FAX at 801-538-1133 or 801-538-1133, or by Internet E-mail at anaccara@gov.state.ut.us or jtterrill@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/20/2001

AUTHORIZED BY: Amy Naccarato, Director

R623. Lieutenant Governor, Elections.

R623-1. Lieutenant Governor's Procedure for Regulation of Lobbyist Activities.

R623-1-1. Purpose.

Pursuant to Utah Code Section 36-11-404 this rule provides procedures for the lieutenant governor's office to:

- A. Issue lobbyist licenses;
- B. Disapprove lobbyist applications;
- C. Suspend and revoke lobbyist licenses;
- D. Reinstate lobbyist licenses; and
- E. Appoint administrative law judges.

R623-1-2. Authority.

This rule is required by Utah Code Section 36-11-404.

R623-1-3. Definitions.

In addition to the terms defined in Utah Code Section 36-11-102, the following definitions apply:

- A. "Director" means the director of the state elections office.
- B. "Register" means the process of obtaining a lobbying license as required by Sections 36-11-103 and 36-11-105.
- C. "Report" means any report required under Sections 36-11-201, ~~and 36-11-202.~~

R623-1-4. Registration/License Application Procedure.

- A. In order to register and obtain a license, a lobbyist shall:
 1. File a registration/license application statement in compliance with the provisions of Section 36-11-103. The lieutenant governor's office shall make available forms that comply with Section 36-11-103.
 2. Submit the completed form to the lieutenant governor's office; and
 3. Pay the \$25 registration fee.
- B. Upon receipt of a completed lobbyist registration/license application form the lieutenant governor's office shall:

1. Review the registration form for accuracy, completeness and compliance with the law;
2. Approve or disapprove the registration/license application; and
3. Notify the lobbyist in writing within 30 days of approval or disapproval.

C. An applicant who has not been convicted of any of the offenses listed in Section 36-11-105(2)(a)(i), and who has not had a civil penalty imposed as described in Section 36-11-105(2)(a)(ii), may commence lobbying activities upon filing of a completed registration/license application form with the lieutenant governor's office and payment of the registration fee.

D. By applying for a license, the lobbyist certifies that the lobbyist intends to engage in lobbying activities under the circumstances stated in the application or supplements filed with the lieutenant governor's office during the time the registration and license are valid.

1. If a lobbyist intends to cease all lobbying activities for the remainder of the period of licensure, the lobbyist shall notify the lieutenant governor's office in writing and surrender the license.

2. If the lobbyist has a change in circumstances that affects the lobbyist's activities, the lobbyist shall notify the lieutenant governor's office in writing.

3. If a lobbyist has surrendered the license and then decides to re-engage in lobbying activities, a re-issued license without a fee may be requested, if it is within the 2-year period of the original registration.

4. The lobbyist must submit a written request to the lieutenant governor's office in order to have the license reissued.

5. A reissued license expires on December 31 of each even numbered year in accordance with Section 36-11-103(3)(b).

E. A lobbyist may apply for a license, add and delete principals, and provide other notices electronically according to requirements specified by the lieutenant governor's office.

R623-1-5. Disapproval of Application.

A. A lobbyist who is convicted of violation of any of the offenses listed in Utah Code Section 36-11-105, shall have his application for license disapproved by the lieutenant governor's office and a license will not be issued.

B. The lobbyist will receive written notice of the license disapproval from the lieutenant governor's office within 30 days.

R623-1-6. Suspensions, Revocations and Fines.

A. Registration and reporting violations.

1. In addition to any fines imposed under 36-11-401, a lobbyist license may be suspended for any of the following willful and knowing violations of Section 36-11-103, Sections 36-11-201 ~~and 36-11-202~~:

- a. Failure to register;
- b. Failure to file a year end or supplemental report on or before the statutory due date;
- c. Failure to file a year end or supplemental report;
- d. Filing a report or other document that contains materially false information or the omission of material information; including, but not limited to, the failure to list all principals for which the lobbyist works or is hired as an independent contractor;
- e. Failure to update a registration when a lobbyist accepts a new client for lobbying; or
- f. Otherwise violating Sections 36-11-103, 36-11-201, ~~or 36-11-202.~~

2. If a fine or other penalty is imposed more than once under the immediately preceding section, suspension or permanent revocation of the lobbyist license shall be imposed.

3. The determination of the penalty to be imposed will be made by following the procedures as provided by Section R623-1-7.

B. Illegal Activities of lobbyists.

1. If the lieutenant governor's office discovers or receives evidence of a possible violation of Sections 36-11-301 to 305, the evidence will be sent to the appropriate county attorney or district attorney's office for prosecution.

2. If a lobbyist is convicted of a violation of Sections 36-11-301, 36-11-302, or 36-11-303, the lieutenant governor shall revoke the lobbyist license for one year as required by Subsection 36-11-401(3) and give the lobbyist notice of the same, together with notice of the lobbyist's right to request a hearing under Section R623-1-9.

3. If the county or district attorney does not prosecute a possible violation under Sections 36-11-302 or 36-11-303, the lieutenant governor's office shall review the evidence to determine if a civil fine or suspension may be appropriate following the procedures for civil enforcement set forth in Section R623-1-7.

4. If a lobbyist is convicted of a violation of any of the Title 76 Criminal Code Sections referenced in Subsection 36-11-401(2), suspension of up to three years or permanent revocation of the lobbyist license shall be imposed, but no civil fine may be imposed. The determination of whether to revoke or suspend a lobbyist license and for what length of time shall be made following the procedures for civil enforcement as provided by Section R623-1-7.

R623-1-7. Enforcement.

A. Any person with evidence of a possible violation of the Lobbyist Disclosure and Regulation Act may provide such evidence to the director in the lieutenant governor's office or may file a complaint with such officer. If the evidence is of a criminal violation, the person may report the information directly to the appropriate county attorney or district attorney.

B. If the director discovers or receives evidence of a criminal violation, such evidence shall be provided to the appropriate county or district attorney and any civil enforcement actions will proceed as set forth in Subsection R623-1-6(B).

C. If the director discovers or receives evidence of a violation of a civil provision, the director will investigate the alleged violation and make a determination regarding what fine and/or suspension or revocation should be imposed, if any.

~~1. Fines for reports not filed on or before the statutory due date shall not be less than \$50 per day for each day the report is late.~~

~~2. Extenuating circumstances may be considered before a penalty is imposed.~~

D. The director shall give notice of the recommended penalty to the lobbyist, and if a complaint was filed, to the complainant.

E. If either the lobbyist or the complainant desire to contest the recommended penalty, they or either of them may do so by requesting a hearing within fifteen (15) days of receipt of the notice of the recommended penalty. If neither file a request for a hearing within the fifteen day period, the recommended penalty will be the penalty imposed for the violation. The notice of recommended penalty shall include a notice of hearing rights.

F. The administrative law judge for the hearing is not bound by the recommended penalty and may impose a penalty greater or less than the recommended penalty, as seems justified by the evidence.

G. If a lobbyist license is suspended or revoked, the lieutenant governor's office shall remove the lobbyist's name from the official list and notify the following of such:

1. The speaker of the house of representatives;
2. The president of the senate; and
3. The governor.

R623-1-8. Hearings, Appointment of Administrative Law Judges.

A. Hearings will be conducted as informal adjudicative proceedings under the Administrative Procedures Act.

B. The lieutenant governor's office shall appoint administrative law judges from state agencies to act as presiding officers over adjudicative proceedings.

R623-1-9. Reinstatement of a Lobbyist License.

A. A lobbyist whose license is suspended or revoked may apply for reinstatement as provided by Section 36-11-402.

B. The lieutenant governor's office shall not reinstate any lobbyist license until the lobbyist pays any fines that have been imposed and the reinstatement fee provided by Section 36-11-402.

KEY: lobbyist

March 3, 2000

36-11-404



**Natural Resources, Parks and
Recreation
R651-611
Fee Schedule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24189

FILED: 11/01/2001, 17:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To update and keep current the Fee Schedule for state parks, it is necessary to delete certain information that no longer applies i.e., the ice skating rink at Utah Lake State park has been torn down and will not be rebuilt. Therefore, the fees and information regarding that ice rink are obsolete. Other reasons include, but are not limited to, changes in cost for some services that have been added to the park system, such as Specialty, Family or Commuter permits at Snow Canyon State Park; charges for services/buildings or changes in management; elimination of the "single park pass", while keeping the "multiple park pass"; increase in golfing fees at Wasatch Mountain State Park Golf Course where nine new holes have been added; and an increase in certain mooring fees, special programs and entrance and camping fees that serve to offset the increasing costs to operate and maintain such facilities and services within the state park system.

SUMMARY OF THE RULE OR CHANGE: To update certain fees for camping, building use, permits, golf fees, and mooring fees that are necessary to operate facilities and provide recreation services throughout the state park system. To eliminate information on services no longer available to the recreating public; to add additional safety equipment (life jacket) available for rent; and add certain programs (Antelope Island Wildlife Management Program) for the education/recreation experience for the public.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: It is anticipated that during Fiscal Year 2002, increased fees for services/facilities at state parks will generate \$332,100 and for Fiscal Year 2003 will generate \$760,500. Depending on the economy, they will vary with visitation at the different state parks. (Detailed monetary information described in table format is available upon request to the Division.)

❖LOCAL GOVERNMENTS: Since local government has no authority over State Parks, the fee increases associated with this rule will not increase expenditures for local government.

❖OTHER PERSONS: Increased fees for services rendered by state parks in mooring and storage, camping fees, park entrance fees, multiple park passes, reservation fees, single park passes, greens fees and cart rentals will be charged to the public. One fee for museum entrance will be less. (Detailed tables on the fees are available upon request to the Division.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: Anyone using park services listed above are affected by fee changes. The increases range from \$0.50 for a motorized golf cart at Wasatch Mountain State Park Golf Course, to an increase of \$25 for group sites. Those costs will be paid by the public for use of state park facilities and services. Total amounts will vary from park to park depending on the increases. (Tables detailing Compliance Costs for Affected Persons are available upon request to the Division.)

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment will have no fiscal impact on business.

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

NATURAL RESOURCES
 PARKS AND RECREATION
 Room 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY UT 84116-3154, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-538-7378, or by Internet E-mail at dgguess.nrdpr@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 PM on 12/31/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2002

AUTHORIZED BY: Courtland Nelson, Director

R651. Natural Resources, Parks and Recreation.

R651-611. Fee Schedule.

R651-611-1. Use Fees.

All fees required under this fee schedule are to be paid in advance of occupancy or use of facilities.

A. Fees for services covering one or more months, for docks and dry storage, must be paid in advance for the season as determined by the Division.

B. Fee permits and passes are not refundable or transferable. Duplicate annual permits and special fun tags will be issued only upon completion of an affidavit and payment of the required fee. Inappropriate use of fee permits and passes may result in confiscation by park authorities.

C. Fees shall not be waived, reduced or refunded unless authorized by Division guideline; however, park or unit managers may determine and impose equitable fees for unique events or situations not covered in the current fee schedule. The director has the prerogative to waive or reduce fees.

D. The Multiple Park Permit, ~~[Single Park Permit,]~~ Special Fun Tag, Heritage Park Pass, Five Day Pass, Camping Permit and Daily Private Vehicle Permit are good for one (1) private vehicle with up to eight (8) occupants, with the exception of any special charges. Multiple Park Permits, Heritage Park Passes, Special Fun Tags, and Five Day Passes are not honored at This Is The Place State Park or the OHV center at Jordan River State Park.

E. No charge for persons five years old and younger.

F. With the exception of the Multiple Park Permit, Heritage Park Pass, Special Fun Tag, and Five Day Pass, fees are applicable only to the specific park or facility where paid and will not be honored at other parks or facilities.

G. ~~[Fees for This Is The Place State Park and the OHV center at Jordan River State Park will be set by the contract operator with approval of the Division Director.]~~ The contract operator, with the approval of the Division director, will set fees for This Is The Place State Park.

R651-611-2. Day Use Entrance Fees.

Permits the use of all day activity areas in a state park. These fees do not include overnight camping facilities or special use fees.

A. Annual Permits

~~1. Single Park Permit - Good for one park only.~~

~~a. \$55.00 for the following parks:~~

TABLE 1

Anasazi	Antelope Island
Bear Lake/All Areas	Dead Horse Point
Deer Creek	East Canyon
Edge of the Cedars	Fremont
Hyrum	Iron Mission
Jordanelle	Palisade
Quail Creek	Rockport
Seofield	Snow Canyon
Starvation	Territorial Statehouse

~~Utah Fieldhouse of NH Utah Lake~~
~~Willard Bay Yuba~~

~~b. \$45.00 for all other parks not listed as in a.)~~
~~[2]1. [~~\$65.00~~]\$70.00 Multiple Park Permit (good for all parks)[-]~~

2. Snow Canyon Specialty Permits

- a. \$15.00 Family Pedestrian Permit
- b. \$5.00 Commuter Permit

3. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.

B. Special Fun Tag - Available free to Utah residents, 62 years and older or disabled, as defined by Special Fun Tag permit affidavit.

C. Daily Permit[s] - Allows access to a specific state park on the date of purchase.

- 1. [~~\$6.00~~]\$7.00 per private motor vehicle or \$4.00 per person for pedestrians or bicycles for the following parks:

TABLE [2]1

Dead Horse Point	Deer Creek
Jordanelle	Utah Lake
Willard Bay	

2. \$6.00 per private motor vehicle or \$3.00 per person for pedestrians or bicycles for the following parks:

TABLE 2

Bear Lake	Quail Creek
Sciofield	Yuba

[2-]3. \$5.00 per private motor vehicle or \$3.00 per person for the following parks:

TABLE 3

[Anasazi]	Antelope Island
[Bear Lake/Rendevous]	[Bear Lake/Marina]
Coral Pink	East Canyon
[Edge of the Cedars]	Escalante
[Fremont]	Goblin Valley
Green River	Gunlock
Huntington	Hyrum
[Iron Mission]	Kodachrome
Lost Creek	Millsite
Minersville	Otter Creek
Palisade	Pineview
Piute	[Quail Creek]
Rockport	[Sciofield]
Snow Canyon	Starvation
Steinaker	[Territorial Statehouse]
[Utah Fieldhouse of NH]	[Yuba]
Wasatch Mountain	

[~~—~~3. \$4.00 per private motor vehicle or \$2.00 per person for pedestrians or bicycles for all parks not listed in 1 or 2 above.]

4. \$1.00 per person or \$5.00 per family (up to eight (8) individuals. For the following parks:

TABLE 4

Anasazi	Camp Floyd
Edge of the Cedars	Fort Buenaventura
Fremont	Iron Mission
Territorial	Utah Field House

[4]5. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants.

D. Five Day Pass - \$15.00 permits day use entrance to all state parks for five (5) consecutive days.

E. Group Site Day Use Fee - Advance reservation only. [~~\$1.00~~]\$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum [~~\$25.00~~]\$50.00 fee established for each facility.

F. Educational Groups - No charge for group visits by Utah public or parochial schools with advance notice to park. When special arrangements or interpretive talks are provided, a fee of \$.50 per person may be charged at the park manager's discretion.

G. Heritage Park Pass: \$20.00 permits up to five (5) visits to any Heritage Park during the calendar year of issue for up to eight (8) people per private motor vehicle.

H. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

R651-611-3. Camping Fees.

Permits overnight camping and day use for the day of arrival until 2:00 p.m. of the following day or each successive day. Camp sites must be vacated by 12:00 noon following the last camping night at Dead Horse Point. Camping is limited to 14 consecutive days at all campgrounds with the exception of Snow Canyon State Park, with a five (5) consecutive day limit.

A. Individual Sites -- One (1) vehicle with up to eight (8) occupants and any attached recreational equipment as one (1) independent camp unit. Any vehicles in addition to the independent camp unit will be charged the full price for a campsite. Fees for individual sites are based on the following schedule:

- 1. \$8.00 with pit or vault toilets; [~~\$10.00~~]\$11.00 with flush toilets; [~~\$12.00~~]\$14.00 with flush toilets and showers or electrical hookups; [~~\$14.00~~]\$17.00 with flush toilets, showers and electrical hookups; [~~\$16.00~~]\$20.00 with full hookups.

[

TABLE 4

Beer Creek	East Canyon
Fremont	Goblin Valley
Great Salt Lake	Green River
Gunlock	Huntington
Hyrum	Millsite
Minersville	Otter Creek
Piute	Quail Creek
Red Fleet	Sciofield
Starvation	Steinaker
Wasatch Mountain	Willard Bay

2. \$8.00 with pit or vault toilets; \$11.00 with flush toilets; \$13.00 with flush toilets and showers or electrical hookups; \$15.00 with flush toilets, showers, and electrical hookups; \$17.00 with full hookups.

TABLE 5

Antelope Island	Coral Pink Sand Dunes
Escalante	Kodachrome
Palisade	Rockport
Snow Canyon	Utah Lake
Yuba	

3. \$8.00 with pit or vault toilets; \$13.00 with flush toilets; \$15.00 with flush toilets and showers or electrical hookups; \$17.00 with flush toilets, showers and electrical hookups; \$19.00 with full hookups.

TABLE 6

Bear Lake	Dead Horse Point
Jordanette	

] [4.]2. Primitive camping fees may be decreased at the park manager's discretion dependent upon the developed state of the facilities to be used by park visitors. Notification of the change must be made to the Division's financial manager and reservations manager before the reduced fee can be made effective.

~~[5. \$5.00 per additional vehicle at all parks and individual camping sites for all additional transportation vehicles that are separate and not attached to the primary vehicle, but are dependent upon that camp unit. No more than one (1) additional vehicle is allowed at any individual camping site.]~~

[6.]3. Special Fun Tag holders may receive a \$2.00 discount for individual camping sites Monday through Thursday nights, excluding holidays.

B. Group Sites - ([B]y advance reservation for groups)

1. \$[4]2.00 per person, age six (6) and over at sites with vault toilets. Minimum \$[25]50.00 fee for each facility.

2. \$[2]3.00 per person, age six (6) and over at sites with flush toilets and/or pavilions. Minimum \$[50]75.00 fee for each facility, except Dead Horse Point with a minimum of \$25.00.

R651-611-4. Special Fees.

A. Golf Course Fees

1. Jordan River rental and green fees

a. Nine holes general public - weekends and holidays - summer - \$6.50

b. Nine holes weekdays (except holidays) - summer - \$5.50

c. Nine holes Jr/Sr weekdays (except holidays)- [-] summer) - \$4.50

d. Nine holes general public (winter) - \$4.50

e. Nine holes Jr/Sr (winter) - \$3.50

f. All day rate weekdays (winter) - \$8.00

g. All day rate weekends and holidays (winter) - \$10.00

h. 20 round card pass - \$75.00

i. Promotional pass weekdays (except holidays) - \$250.00

j. Companion fee - adult - \$2.00

k. Companion fee - child - \$1.00

l. Motorized cart (9 holes) - Prohibited

m. Pull carts (9 holes) - \$1.00

n. Club rental - \$3.00

o. Summer season is April through October and the winter season is November through March.

2. Palisade rental and green fees.

a. Nine holes general public - weekends and holidays - \$10.00

b. Nine holes weekdays (except holidays) - \$9.00

c. Nine holes Jr/Sr weekdays (except holidays) \$8.00

d. 20 round card pass - \$140.00

e. 20 round card pass (Jr only)- \$100.00

f. Promotional pass - single person (any day) - \$400.00

g. Promotional pass - single person (weekdays only) - \$275.00

h. Promotional pass - couples (any day) - \$650.00

i. Promotional pass - family (any day) - \$850.00

j. Companion fee - walking, non -player - \$4.00

k. Motorized cart (9 holes) - \$8.00

l. Motorized cart (9 holes single rider) - \$4.00

m. Pull carts (9 holes) - \$2.00

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

p. Driving range - small bucket - \$2.50

q. Driving range - large bucket - \$3.50

3. Wasatch Mountain rental and green fees.

a. Nine holes general public - \$[40]11.50

b. Nine holes general public (weekends and holidays)- \$[44.00]12.50

c. Nine holes Jr/Sr weekdays (except holidays) - \$[9]10.50

d. 20 round card pass - \$[40]210.00 - no holidays or weekends

e. Companion fee - walking, non-player - \$4.00

f. Motorized cart (9 holes - mandatory on Mt. course) - \$[40]11.00

g. Motorized cart (9 holes single rider) - \$5.[0]50

h. Pull carts (9 holes) - \$2.25

i. Club rental (9 holes) - \$6.00

j. School teams - No fee for practice rounds with coach and team roster (Wasatch Co. only).

Tournaments are \$3.00 per player.

k. Tournament fee (per player) - \$[2]4.00

l. Driving range - small bucket - \$2.25

m. Driving range - large bucket - \$4.50

4. Green River rental and green fees.

a. Nine holes general public - \$9.00

b. Nine holes Jr/Sr weekdays (except holidays) - \$8.00

c. Eighteen holes general public - \$16.00

d. 20 round card pass - \$130.00

e. Promotional pass - single person (any day) - \$325.00

f. Promotional pass - single person (Jr/Sr weekdays) - \$275.00

g. Promotional pass - couple (any day) - \$600.00

h. Promotional pass - family (any day) - \$750.00

i. Companion fee - walking, non-player - \$4.00

j. Motorized cart (9 holes) - \$8.00

k. Motorized cart (9 holes single rider) - \$4.00

l. Pull carts (9 holes) - \$2.25

m. Club rental (9 holes) - \$5.00

n. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

5. Golf course hours are daylight to dark

6. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.

7. Jr golfers are 17 years and under. Sr golfers are 62 and older.

B. Boat Mooring and Dry Storage

1. Mooring Fees:

a. Day Use - \$5.00

b. Overnight Boat Parking - \$7.00 (until 8:00 a.m.)

c. Overnight Boat Camping - \$10.00 (until 2:00 p.m.)

d. Monthly - \$4.00/ft.

e. Monthly with Utilities - (Bear Lake) \$[5]6.00/ft.

f. Monthly with Utilities - (Other Parks) \$[4.50]5.00/ft.

g. Monthly Off Season - \$2.00/ft

h. Monthly (Off Season with utilities) - \$2.50/ft

2. Dry Storage Fees:

a. Overnight (until 2:00 p.m.) - \$5.00

b. Monthly During Season - \$[40.00]50.00

c. Off Season - \$[20.00]25.00

C. Meeting Rooms and Buildings

1. Day Use: 1-4 hours between 8:00 a.m. and 6:00 p.m.

a. Up to 50 persons - \$50.00

- b. 51 to 100 persons - \$70.00
- c. 101 to 150 persons - \$90.00
- d. Add 50% for after 6:00 p.m.
- e. Fees include day use fee
- 2. Overnight Use 2:00 p.m. until 2:00 p.m., up to 100 people.
 - a. ~~[Monday through Thursday - \$100.00]~~ Minimum Fee \$200.00
 - ~~[b. Friday through Sunday and Holidays - \$150.00]~~
 - ~~[e]~~ b. November through March - Add 10%
 - D. ~~[fee and]~~ Roller Skating Fees

TABLE [7]5

Public Hours	Territorial Two Hour Sessions	[Utah Lake] [Two Hour Sessions]
1. Adults	\$2.00	[\$4.00]
2. Children 6 through 11	\$1.00	[\$3.00]
3. Skate Rental	\$1.00	[\$1.00]
4. Ice Skate Sharpening		[\$3.00]
5. Group Reservations	[\$30.00/hour]	[\$100.00/hour]
a. First Hour	\$30.00	
b. Every Hour Thereafter	\$20.00	

- E. Other Miscellaneous Fees
 - 1. Canoe Rental (includes safety equipment).
 - a. Up to one (1) hour - \$ 5.00
 - b. Up to four (4) hours - \$10.00
 - c. All day to 6:00 p.m. \$20.00
 - 2. Paddle boat Rental (includes safety equipment).
 - a. Up to one (1) hour \$10.00
 - b. Up to four (4) hours \$20.00
 - c. All day to 6:00 p.m. \$30.00
 - 3. Cross Country Skiing Trails.
 - a. \$4.00 per person, twelve (12) and older.
 - b. \$2.00 per person, six (6) through eleven (11).
 - 4. Pavilion - 8:00 a.m. - 10:00 p.m. (non -fee areas).
 - a. \$10.00 per day - (single unit).
 - b. \$30.00 per day - (group unit).
 - 5. Recreation Field (non-fee areas) - \$25.00.
 - 6. Sports Equipment Rental - \$10.00.
 - 7. Life Jacket Rental - \$1.00
 - ~~[7]8. Day Use Shower Fee - \$2.00.~~
(where facilities can accommodate)
 - ~~[8. Cemetery Fees:~~
 - ~~a. \$150.00 Veteran or as allowed by Veterans Administration~~
 - ~~b. \$400.00 Spouse or dependent child (under 18 or handicapped).~~
 - ~~c. \$200.00 Extra for Saturday burials.~~
 - ~~d. \$250.00 Extra for Sunday or holiday burials.~~
 - ~~e. \$200.00 Cleaning deposit for all non funeral functions.~~
 - ~~f. \$100.00 Two hour chapel use for funerals.~~
 - ~~g. \$125.00 Two hour chapel use (non funeral).~~
 - ~~h. \$50.00 additional charge for chapel use on Saturday, Sunday and holidays.~~
 - ~~i. \$300.00 Casket disinterments.~~
 - ~~j. \$150 Cremation disinterments.~~
 - 9. Application Fees - Non -refundable PLUS Negotiated Costs.
 - a. Grazing Permit - \$20.00
 - b. Easement - \$50.00
 - c. Construction/Maintenance - \$50.00
 - d. Special Use Permit - \$50.00
 - e. Commercial Filming - \$50.00

- f. Waiting List - \$10.00
- 10. Assessment and Assignment Fees.
 - a. Duplicate Document - \$10.00
 - b. Contract Assignment - \$20.00
 - c. Returned checks - \$20.00
 - d. Staff time - \$40.00/hour
 - e. Equipment - \$30.00/hour
 - f. Vehicle - \$20.00/hour
 - g. Researcher - \$5.00/hour
 - h. Photo copy - \$.10/each
 - i. Fee collection - \$10.00
- 11. Curation Fees.
 - a. Annual curation agreement \$50.00
 - b. Curation storage Edge of Cedars \$400.00/cubic foot.
 - c. Curation storage other parks \$250.00/cubic foot
 - d. All curation storage fees are one time only.
- 12. Snowmobile Parking Fee - Monte Cristo Trail_head.
 - a. Day use (6:00 a.m. to 10:00 p.m.) - \$3.00
 - b. Overnight (10:00 p.m. to 10:00 p.m.) - \$5.00
 - c. Season Pass (Day use only) - \$30.00
 - d. Season Pass (Overnight) - \$50.00

R651-611-5. Reservations.

- A. Camping Reservation Fees.
 - 1. Individual ~~[reservations]~~ Campsite ~~[\$6.25]~~ \$7.00
 - 2. Group ~~[reservations]~~ site or building rental \$10.25
 - 3. Fees identified in #1 and #2 above are to be charged for both initial reservations and for changes to existing reservations.
- B. All park facilities will be allocated on a first-come, first-serve basis.
- C. Selected camp and group sites are reservable in advance by calling 322-3770 or 1-800-322-3770.
- D. Applications for reservation of skating rinks, meeting rooms, buildings, mooring docks, dry storage spaces and other sites not covered above, will be accepted by the respective park personnel beginning on the first business day of February for the next 12 months. Application forms and instructions are available at the park.
- E. All unreserved mooring docks, dry storage spaces and camp picnic sites are available on a first-come, first-serve basis.
- F. ~~[A cleanup deposit may be required by the park manager for any group reservation or special use permit.]~~ The park manager for any group reservation or special use permit may require a cleanup deposit.
- G. Golf course reservations for groups of 20 or more and tournaments will be accepted for the calendar year beginning the first Monday of March. ~~[No weekend tournaments at Wasatch Mountain.]~~ Reservations for up to two starting times (8 persons) may be made for Saturday, Sunday and Monday, the preceding Monday; and for Tuesday through Friday, the preceding Saturday. Reservations will be taken by phone and in person during golf course hours.
- H. ~~[No park facilities will be reserved by one party for more than 14 consecutive days in any 30-day period, with the exception of Snow Canyon State Park which can be reserved by one party for no more than five (5) consecutive days in any 30-day period.]~~ One party will reserve park facilities for more than fourteen (14) consecutive days in any 30-day period.

KEY: parks, fees

~~May 16, 2000~~ January 1, 2002

Notice of Continuation February 10, 1997
63-11-17-(2)

▼ ————— ▼

Natural Resources; Forestry, Fire and State Lands **R652-121** Wildland Fire Suppression Fund

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 24168

FILED: 10/29/2001, 12:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During its 2001 General Session, the Utah Legislature amended Sections 65A-8-6.1 and 65A-8-6.2 (H.B. 388) regarding the Wildland Fire Suppression Fund. The purpose of this proposed rule change is to make the rule consistent with statute. (DAR Note: H.B. 388 is found at 2001 Utah Laws 81, and was effective March 9, 2001.)

SUMMARY OF THE RULE OR CHANGE: The amended statute specifies that the value of real property provides the base for calculation of one element of the county payments to the fund. The proposed rule amendment likewise makes this clarification and specifies the linkage to property values reported by counties to the Tax Commission pursuant to Section 59-2-322. The amended statute provided a one-time waiver of equity payments. The proposed rule amendment allows for this contingency by specifying that the equity payment is required unless waived by the legislature.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 65A-8-6.4

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** If a county previously included personal property in the formula used to determine the annual payment to the Fund, subsequent payments will be reduced. This would reduce both the county payment and the state's match of that payment, thereby reducing the Fund balance. This could change the probability that a supplemental appropriation will be required to cover fire suppression costs of a severe fire season. No specific costs or savings have been identified.

❖ **LOCAL GOVERNMENTS:** If a county previously included personal property in the formula used to determine the annual payment to the fund, subsequent payments will be reduced. The amount would vary by county.

❖ **OTHER PERSONS:** The rule does not apply to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because participation in the Fund is voluntary.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule relates only to state and county government. There will be no fiscal impact on businesses.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
Room 3520
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Karl Kappe at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at kkappe.nrsif@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Karl Kappe, FFSL Strategic Planner

R652. Natural Resources; Forestry, Fire and State Lands.

R652-121. Wildland Fire Suppression Fund.

R652-121-100. Authority.

This rule implements Article XVIII of the Utah Constitution and provides for administration of the Wildland Fire Suppression Fund under the authority of Section 65A-8-6.4.

R652-121-200. Normal Fire Suppression Costs.

1. Under the terms of a cooperative fire protection agreement, the state forester shall file an annual budget for operation of a cooperative district with each participating county. The county shall budget an amount for actual fire suppression costs determined to be normal by the state forester.

2. Normal fire suppression costs are defined as the actual costs identified by annual audits of a participating county's financial records and costs paid by the state in the county's behalf under the terms of Sections 65A-8-6 and 65A-8-6.2. The most recent seven-year record will be used. The highest year and lowest year will be deducted and the remaining five years averaged.

3. The seven years of fire suppression costs will be in constant dollars, which allows for the effect of inflation.

4. The minimum county budget for fire suppression costs shall be \$5,000. The effect of inflation will be considered every three years. An amount equal to the accumulated inflation over this period will be added to this base budget for fire suppression. This time period began January 1, 1999.

R652-121-300. Annual Sign Up, Effective Payment Period, Annual Assessment Payments and Capitalization.

1. The annual sign up period will be from November 1 through January 10 of the following year.

2. The effective period for payments out of the Wildland Fire Suppression Fund will be June 1 through October 31 of each year. Should the state forester determine the need to extend the fire season as specified in Section 65A-8-9 due to fire severity, all suppression costs incurred during that extension period will be eligible. A participating county may petition the state forester in writing requesting use of the Wildland Fire Suppression Fund to cover wildland fire suppression costs incurred outside the normal fire season.

3. A participating county shall make its assessment fee and any required equity payment by March 15 of each year.

R652-121-400. Determination of Unincorporated Acreage.

1. The unincorporated acreage to be used in determining a portion of the assessment fee for participation in the Wildland Fire Suppression Fund will be the private acreage provided by the county from its ownership records. The acreage figure will be updated by the county every three years.

2. A county shall report all of the unincorporated private acreage within the county in order to participate in the Wildland Fire Suppression Fund.

R652-121-500. Determination of Property Values.

1. The taxable value of property in the unincorporated area of a county will be the locally assessed value of real [~~and personal~~] property provided by the county to the Utah State Tax Commission, Property Tax Division on an annual basis.

2. Value of real property means:

(a) the value of real estate, including patented mining claims as reported pursuant to Section 59-2-322.

(b) the value of improvements as reported pursuant to section 59-2-322.

[2]3. The county must adhere to Utah State Tax Commission policy for periodic reassessment of property. A county that is found to be in arrears on meeting this requirement will be penalized by increasing the current taxable value of property by 25% in determining the county's assessment fee.

R652-121-600. Determination of Equity Payments.

1. ~~Unless waived by the legislature, a~~[A]n equity payment is required if a county elects to participate in the Wildland Fire Suppression Fund after the initial sign up period or to reestablish participation in the fund after a county's participation was terminated at the county's choice or for revocation by the state forester. The initial sign up period ended on May 31, 1998.

2. The equity payment is based on what the county's annual assessment fee would have been for the previous three years. In no case will the equity payment exceed three years of assessment.

3. If a county elects to join the suppression fund for the first time after May 31, 2000, an equity payment will be required that is equal to the previous three years' assessment fees.

4. If a county elects to withdraw from the fund or participation is revoked by the state forester, the county may request permission in writing to re-establish participation. Upon acceptance, the county must make an equity payment equal to what its assessment fees would have been for each year it was out of the fund, not to exceed three years.

R652-121-700. Definition of Eligible Suppression and Presuppression Costs.

1. After the County's approved fire suppression budget has been depleted, all fire suppression costs that occur during the fire season, as defined in R652-121-300, directly related to the control of wildfires on forest, range and watershed lands within the unincorporated area of a participating county are eligible for coverage by the Wildland Fire Suppression Fund. The costs of resources directly involved in fire suppression efforts that are paid from the county's wildland fire suppression account are eligible. The county must notify the state forester in writing when the county's budget for normal fire suppression costs has been expended. Area managers will verify to the state forester in writing that a county's fire suppression budget has been depleted.

2. A good faith effort must be made by the counties to recover suppression costs for human caused fires. If the county has evidence that indicates a responsible party for a fire and chooses not to proceed, suppression cost for that fire is not eligible for reimbursement from the Wildland Fire Suppression Fund. After consultation between the county and state, the state forester will determine if a good faith effort has been made to recover suppression cost.

3. Wildland Fire suppression costs recovered under Section 65A-3-4 will be repaid to the Wildland Fire Suppression Fund.

4. Presuppression projects may be funded from the Wildland Fire Suppression Fund when approved in advance by the state forester.

R652-121-900. Clarification of The State's Financial Obligation For Suppression Costs.

If the Wildland Fire Suppression Fund is not adequate to pay all eligible fire suppression costs, prorated expenditure payments will be made to affected counties. The remaining county liability will be shared between the county and state as provided by the current agreement.

R652-121-1000. Agreement For County Participation in Fund.

Pursuant to Section 65A-8-6.2 a county legislative body may enter into a written agreement with the state forester to participate in the Wildland Fire Suppression Fund. The written agreement to authorize a county's participation in the fund may be an addendum to the current cooperative wildland fire agreement between a county and the state forester.

R652-121-1100. Revocation of Participation in Fund.

1. A county's eligibility to participate in the Wildland Fire Suppression Fund may be revoked for failure to:

(a) pay the required assessment or equity fees when due after being notified by the state forester as specified in Subsection R652-121-1100(2).

(b) provide documented unincorporated acreage figures for assessment determination; or

(c) provide total taxable value of unincorporated property as provided annually to the Utah State Tax Commission, Property Tax Division for the assessment determination.

2. The state forester will apprise a county in writing of any deficiency in Subsection R652-121-1100(1) within 30 days following the due date. Deficiencies not remedied within 60 days shall result in revocation of a county's participation in the Wildland Fire Suppression Fund.

R652-121-1200. Definition of Presuppression Activities.

Presuppression activities are those activities related to wildfire prevention, preparedness and mitigation to reduce hazard or risk on eligible lands. Presuppression activities include fuel treatment, fuel breaks, defensible space, codes and ordinances, presuppression plans, wildland fire protection capability, wildland fire suppression training and other practices which reduce hazards or risks in the eligible areas.

R652-121-1300. Application Process For Presuppression Projects.

1. Presuppression project proposals must be submitted to the state forester in writing prior to implementation. The written proposal shall detail:

- (a) the location of the project,
- (b) the purpose of the project,
- (c) the methods of accomplishing the project,
- (d) the time line for completion of the project,
- (e) the resources needed and their availability,
- (f) itemized estimated cost for the project, and
- (g) other data required by the state forester.

2. Presuppression project proposals may be submitted by the counties to the state forester from March 1 through April 1 and August 1 through September 1 of each year. The counties will be notified by May 1 or October 1 of the state forester's decision on the proposed projects.

R652-121-1400. Limitation on Presuppression And Fire Management Incentives.

1. The cost of a county's approved presuppression projects shall not exceed 75% of that county's annual assessment fee for the Wildland Fire Suppression Fund.

2. Presuppression projects may be cost shared at a rate between 25% and 75% of the total cost of the project. The cost share rate will be determined by the state forester for each project category on an annual basis. These cost share rates will be communicated to the counties by January 30 of each year.

3. Presuppression projects may be proposed for multi-year funded projects. These multi-year funded projects may not exceed three years. Annual cost share payments to a county for a multi-year project may not exceed 75% of that county's annual assessment fee. Project proposals will be developed to reflect annual work plans and payments to complete the project over a specified number of years.

4. The costs that may be reimbursed for presuppression projects may be limited by legislative appropriation. The Division shall not authorize payments for presuppression projects that exceed 75% of the total annual assessment fees paid into the fund by participating counties.

R652-121-1450. Payment for Presuppression Projects.

1. Cost share payment for presuppression projects will be made to the counties when:

- (a) the project is completed, inspected and certified by the area manager; and
- (b) the county makes a written request for reimbursement with documented costs.

R652-121-1600. State Land Exclusion.

Wildland fire suppression costs on state-owned lands are not eligible to be covered from the Wildland Fire Suppression Fund.

KEY: administrative procedure, wildland fire fund

March 12, 2001

65A-8-6.4

▼ ————— ▼

Public Safety, Administration

R698-100

**Possession of Firearms, Ammunition,
Dangerous Weapons, Explosives,
Chemical and Incendiary Devices in
Olympic Venue Secure Areas**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 24179

FILED: 11/01/2001, 12:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule is to: (a) designate the locations of secure areas within Olympic venues where possession of a firearm, ammunition, dangerous weapon, or explosive, chemical or incendiary device is prohibited between January 25, 2002, and April 1, 2002; (b) provide notice; and (c) designate persons authorized to possess the items mentioned in letter (a) of this paragraph.

SUMMARY OF THE RULE OR CHANGE: The rule: (a) designates the locations of secure areas within Olympic venues where possession of a firearm, ammunition, dangerous weapon, or explosive, chemical or incendiary device is prohibited between January 25, 2002, and April 1, 2002; (b) provides definitions; (c) describes the type of notice that informs the public of the secure areas; (d) discusses public access entrance and exits; (e) describes the type of notice used to inform the public of the access entrance and exits; (f) provides that the Olympic law enforcement commander elects not to provide secure weapons storage areas; (i) provides penalties; and (j) designates persons who are exempt from the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-12-301.1

ANTICIPATED COST OR SAVINGS TO:

❖**THE STATE BUDGET:** The only fiscal impact on the state budget caused by the rule will be the cost of the signs posted to give the notices referred to in the rule. The cost of the signs is minimal.

❖**LOCAL GOVERNMENTS:** This rule will have no fiscal impact on local government because the rule does not apply to local government.

❖**OTHER PERSONS:** This rule will have no fiscal impact on other persons because it merely informs the public of issues involving secure areas in connection with the 2002 Winter Olympic Games.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons affected by this rule because it merely designates secure areas within Olympic venues where certain dangerous items are prohibited and explains how notice of that fact will be communicated to the public.

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:

PUBLIC SAFETY
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 1ST FLR
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ken Frank at the above address, by phone at 801-965-4530, by FAX at 801-965-4756, or by Internet E-mail at kfrank@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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Robert Flowers, Commissioner

R698. Public Safety, Administration.

R698-100. Possession of Firearms, Ammunition, Dangerous Weapons, Explosives, Chemical and Incendiary Devices in Olympic Venue Secure Areas.

R698-100-1. Purpose.

A. The purpose of this rule is to:

(1) Designate the locations of secure areas within Olympic venues where possession of a firearm, ammunition, dangerous weapon, or explosive, chemical, or incendiary device is prohibited between January 25, 2002 and April 1, 2002.

(2) Provide notice that a reasonable person would understand regarding:

(a) the location of the Olympic venue secure areas where possession of the items listed in Subsection R698-100-1.A.(1) is prohibited;

(b) the location of public access entrances and exits to the Olympic venue secure areas; and

(c) the penalties for violating Section 76-10-531, restriction of dangerous weapons in Olympic venue secure areas.

(3) Designate persons authorized to possess the items listed in Subsection R698-100-1.A.(1) in Olympic venue secure areas, including those persons exempted by Subsection 76-10-523(1).

R698-100-2. Authority.

This rule is authorized by Section 53-12-301.1, which requires the Olympic law enforcement commander to make rules designating Olympic venue secure areas, providing notice regarding their

location, the location of public access entrances and exits at Olympic venue secure areas, and the penalties associated with violating Subsection 76-10-523(1), dealing with the restriction of dangerous weapons in Olympic venue secure areas.

R698-100-3. Definitions.

A. "Olympic Games" means the XIXth Olympic Winter Games and the VIIIth Paralympic Winter Games. Reference to "Olympic" or "Olympics" is intended to include the XIXth Olympic Winter Games and the VIIIth Paralympic Winter Games.

B. "Olympic venue" means:

(1) A specific location that is:

(a) secured by a perimeter and public access is controlled; and

(b) where spectators view Olympic events.

(2) A specific location designated for media.

(3) A specific location designated as official athlete housing not open to the general public.

C. "Olympic events" means competitions, practice sessions, performances, celebrations and other events which for public safety or law enforcement purposes are designated by the commander as connected with the Olympics or Olympic related whether recognized by the organizer as Olympic events or not.

D. "Olympic venue secure area" means:

(1) A specific location secured by a perimeter, where public access is controlled and where spectators view Olympic events where the possession of a firearm, ammunition, dangerous weapon, or explosive, chemical, or incendiary device is prohibited between January 25, 2002 and April 1, 2002. This includes areas designated as practice venues, performance or celebrations sites in connection with the Olympic Games, which are secured by a perimeter, where public access is controlled and where spectators are allowed to view practices, or performances, or celebrations or other Olympic related events.

(2) A specific location designated for media where the possession of a firearm, ammunition, dangerous weapon, or explosive, chemical or incendiary device is prohibited between January 25, 2002 and April 1, 2002.

(3) A specific location designated as official athlete housing not open to the general public where the possession of a firearm, ammunition, dangerous weapon, or explosive, chemical, or incendiary device is prohibited between January 25, 2002 and April 1, 2002.

(4) An area outside the secure perimeter extending for a reasonable distance necessary to ensure the security and safety of the venue, its access points and access control equipment and personnel, and participants, spectators, officials and others with authorized access to the venue.

E. "Explosive, chemical or incendiary device" is defined in Section 76-10-306(1)(a).

F. "Firearm" is defined in Section 76-10-501(9)(a).

G. "Dangerous weapon" is defined in Section 76-10-501(5)(a).

R698-100-4. Location of Olympic Venue Secure Areas: Designation.

A. The commander designates the following categories of venues, sites and locations as places within which Olympic venue secure areas, as that term is defined in Subsection R698-100-3.D., are located:

1. All of the competition venues;

2. All of the practice venues and locations;

3. All of the Olympic cultural event venues and locations;

- 4. Rice-Eccles/Olympic stadium;
- 5. Olympic celebration and performance sites, including, but not limited to, the Salt Lake Olympic Square;
- 6. International Broadcast Center/Main Media Center;
- 7. Athlete Village;
- 8. Any area officially designated by the commander for media or official athlete housing not open to the general public;
- 9. Any vehicle provided by the Salt Lake Organizing Committee for transportation to or from Olympic venue secure areas;
- 10. Any other Olympic venue secure area that meets the statutory requirements for such area and is designated by the commander in writing.

R698-100-5. Location of Olympic Venue Secure Areas: Notice.

A. The boundaries of the Olympic venue secure areas will be marked by signs posted at appropriate intervals on the perimeter of each venue secure area or by markings or other means, including, but not limited to fences or other barriers, placed to delineate the secure perimeter of the venue. The secure perimeter of the venue shall be identified in a manner providing notice reasonably likely to come to the attention of an intruder in language and in a form that a reasonable person would understand. Personal communication by a law enforcement officer or other person officially posted to monitor the perimeter will be sufficient for advising a person of the existence and location of the secure perimeter.

B. The signs, markings or other means, including personal communication, used to delineate the secure perimeter of a venue, in addition to giving reasonable notice regarding the location of the secure perimeter of the venue, will also give notice that a reasonable person would understand regarding the prohibition against entry into the venue secure area in possession of a firearm, ammunition, dangerous weapon, or explosive, chemical or incendiary device and the penalties associated with such unlawful entry.

C. Form of the notice is given in the following table:

TABLE
NOTICE
OLYMPIC VENUE SECURE AREA

ENTRY INTO THIS AREA IS PROHIBITED UNLESS AUTHORIZED. ALL ENTRY MUST BE THROUGH OFFICIAL VENUE ACCESS POINTS. UNAUTHORIZED ENTRY IS PUNISHABLE AS A TRESPASS. UCA 76-6-206. ENTRY INTO THIS AREA IN POSSESSION OF ANY FIREARM, AMMUNITION, DANGEROUS WEAPON, EXPLOSIVE, CHEMICAL OR INCENDIARY DEVICE WITHOUT AUTHORIZATION IS ALSO PROHIBITED. VIOLATION OF THIS PROHIBITION IS PUNISHABLE BY FINE AND IMPRISONMENT AS PROVIDED IN UCA 76-10-531.

R698-100-6. Public Access Entrance and Exits: Notice.

A. Public access entrances and exits for each Olympic venue secure area will be clearly marked by signs or other means in language and by means that a reasonable person would understand.

B. Each public access entrance and exit for each Olympic venue secure area will have a sign posted giving notice in language that a reasonable person would understand regarding the prohibition against entry into the venue secure area in possession of a firearm, ammunition, dangerous weapon, or explosive, chemical or incendiary device and the penalties associated with such unlawful entry.

C. Form of the notice is given in the following table:

TABLE

NOTICE
OLYMPIC VENUE SECURE AREA

THIS IS AN OLYMPIC VENUE SECURE AREA. ENTRY IS RESTRICTED TO THOSE WHO ARE AUTHORIZED OR PERMITTED TO BE WITHIN THE AREA. UNAUTHORIZED ENTRY IS PUNISHABLE AS A TRESPASS. UCA 76-6-206. ENTRY INTO THIS AREA IN POSSESSION OF A FIREARM, AMMUNITION, DANGEROUS WEAPON, EXPLOSIVE, CHEMICAL OR INCENDIARY DEVICE WITHOUT AUTHORIZATION IS PROHIBITED. UNAUTHORIZED POSSESSION OF SUCH ITEMS WILL RESULT IN YOUR BEING DENIED ENTRY. VIOLATION OF THIS PROHIBITION IS PUNISHABLE BY FINE AND IMPRISONMENT AS PROVIDED IN UCA 76-10-531.

R698-100-7. Location of Secure Weapons Storage Areas: Notice.

The Olympic law enforcement commander elects not to provide secure weapons storage areas.

R698-100-8. Penalties for Violating Section 76-10-531: Notice.

A. Entry into an Olympic venue secure area in unauthorized possession of a firearm, ammunition or dangerous weapon is punishable as a Class B misdemeanor (a term of imprisonment not exceeding six (6) months; a fine not exceeding \$1,000, or both). In addition, Utah law requires a surcharge of 85% of the fine to be added to any fine.

B. Entry into an Olympic venue secure area in unauthorized possession of an explosive, chemical or incendiary device is punishable as a felony of the first degree (a term of imprisonment not less than five years and which may be for life; a fine not exceeding \$10,000 or both). In addition, Utah law requires a surcharge of 85% of the fine to be added to any fine.

R698-100-9. Exempted Person: Designation.

A. The following categories of individuals are exempt from the coverage of this rule:

1. Those individuals listed as exempt from weapons laws pursuant to Section 76-10-523(1)(a) through (g);

2. Members of the United States Armed Forces or members of a National Guard while properly engaged in duties related to the Olympic Games;

3. Members of the National Ski Patrol and employees of the Forest Service or private employees of the organizer or a venue while engaged in avalanche control or other safety related duties in connection with the Olympic Games so long as they are accompanied while in an Olympic venue secure area by a person exempt under Subsections 76-10-523(1)(a), (b) or (c);

4. Explosive ordnance disposal personnel while carrying out responsibilities related to the Olympic Games;

5. Fireworks handlers and support personnel accredited to an Olympic venue by the organizer who are authorized by law to possess and use fireworks, explosive devices and related materials during and in connection with an Olympic event as that term is defined by this rule, whose identity and credentials are made known to the Public Safety venue commander with responsibility for the venue or, if there is no venue commander, to the Olympic law enforcement commander or his designee prior to entry into any Olympic venue secure area, subject to the approval of the Public Safety venue commander or the Olympic law enforcement commander or his designee;

6. Performers and others accredited to an Olympic venue by the organizer who are authorized by law to possess and use firearms and ammunition during and in connection with an Olympic event as that term is defined by this rule, whose identity and credentials are

made known to the Public Safety venue commander with responsibility for the venue or, if there is no venue commander, to the Olympic law enforcement commander or his designee prior to entry into any Olympic venue secure area, subject to the approval of the Public Safety venue commander or the Olympic law enforcement commander or his designee.

B. The commander may designate additional exemptions from the coverage of this rule as required during and in connection with the Olympic Games.

R698-100-10. Biathlon.

Athletes, coaches, trainers, equipment managers, armorers, and others who are accredited by the organizer, the International Olympic Committee, a National Olympic Committee, or the International Biathlon Union, as official participants or support personnel for the biathlon competitions held in connection with the Olympic Games, and who have accredited access to the biathlon competition venue for competition and training, are exempt from the requirements of this rule as they apply to any Olympic venue secure area associated with the biathlon competition for the period of the Olympic Games.

KEY: Olympics, security, firearm
December 18, 2001
53-12-301.1



Transportation, Administration
R907-66
Architecture/Engineering Services
Procurement, Consultant Services --
Eligibility of Costs for Reimbursement --
Bonuses or Incentive Compensation

NOTICE OF PROPOSED RULE
(New Rule)

DAR FILE NO.: 24148
FILED: 10/18/2001, 14:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes when bonus or incentive compensation can be reimbursed in cost-reimbursable contracts with consultant engineering firms.

SUMMARY OF THE RULE OR CHANGE: The rule defines key management officers whose bonuses or incentive compensation cannot be reimbursed and sets out the process by which consultant firm contracts are negotiated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-56-13 and 72-1-201

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: There is anticipated to be no cost or savings to the state as this rule only implements current policy and practice.

❖LOCAL GOVERNMENTS: This rule does not apply to local governments. Therefore, there is no anticipated cost or savings to local governments.

❖OTHER PERSONS: There is anticipated to be no cost or savings to the state as this rule only implements current policy and practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no costs to comply because the rule implements current policy and practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@dot.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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: John R Njord, Executive Director

R907. Transportation, Administration.

R907-66. Administration, Architecture/Engineering Services Procurement, Consultant Services -- Eligibility of Costs for Reimbursement -- Bonuses or Incentive Compensation.

R907-66-1. Purpose.

This rule establishes whether bonuses or incentive compensation allowed as costs incurred in cost-reimbursable contracts with consultant engineering firms and are, therefore, eligible for reimbursement by UDOT.

R907-66-2. Authority.

The provisions of this rule are authorized by Title 63, Chapter 46a, Utah Administrative Rulemaking Act; Utah Code Ann. Section 63-56-13; and Utah Code Ann. Section 72-1-201.

R907-66-3. Definitions.

(1) "FAR" means the Federal Acquisition Regulations contained in Title 48 of the Code of Federal Regulations.

(2) Key management officers means:

(a) owners, presidents, chief executive officers, or other individuals who act in a similar management capacity;

(b) the four most highly compensated individuals in senior management (non-ownership) positions; and

(c) the five most highly paid individuals in senior management positions at each intermediate home office or branch if the consultant firm is organizationally subdivided into intermediate home offices or branch offices and their normal compensation, without including the bonus or incentive compensation, falls within the top 5 percent of all employees in the company.

R907-66-4. Bonus/Incentive Cost Limitation For Consultant Architecture/Engineering.

(1) Bonuses or incentive compensation for key management officers are not eligible for reimbursement.

(2) Bonuses or incentive compensation for non-key management officers and employees may be eligible for reimbursement if:

(a) the consultant enters into an agreement with its employees pursuant to an established plan or policy before the services are rendered;

(b) the agreement establishes the terms by which the consultant pays bonuses or incentive compensation to employees;

(c) the basis for payment of bonuses or incentive compensation is supported and documented; and

(d) the bonuses or incentive compensation are reasonable.

(3) UDOT will remove ineligible bonus/incentive compensation from the overhead cost pool when developing the allowable overhead/indirect cost rate. The consultant firm shall submit annual audit reports to verify that its indirect costs and overhead rates comply with Section 31 of FAR and UDOT's own administrative rules, policies, or contractual provisions.

R907-66-5. Financial Screening.

(1) To verify that the calculated overhead and hourly billing rates comply with FAR, UDOT conducts an initial financial screening and approval of consultants desiring to submit a Statement of Qualification (SOQ) for architecture and engineering service contracts.

(2) Consultants shall update their financial screening information by submitting a new completed financial screening application and related information to the Consultant Services

Division. The consultant shall file the updated applications annually, on the anniversary date of the initial filing.

R907-66-6. Contract Negotiations.

(1) UDOT negotiates consultant contracts with the firm it considers most qualified to provide such services, using guidelines developed by the Consultant Services Division. UDOT prepares independent estimates of the value of such services for use in negotiations.

(2) Negotiations follow state and federal procurement procedures and are based on compensation that UDOT considers fair and reasonable. Negotiations will end when UDOT decides that it cannot agree on terms with the first most qualified firm. UDOT will then begin negotiations with the next most qualified firm. This process continues until either mutually agreeable terms are negotiated or UDOT chooses to begin the selection process again to identify other firms qualified to provide such services.

(3) The guidelines for both selection and negotiations are public information and can be obtained by contacting the Consultant Services Division.

R907-66-7. Award of Contracts.

UDOT awards the contract to the best qualified consultant with which it can negotiate a fair and reasonable cost as required by state rules and FAR and in accordance with UDOT selection procedures and guidelines.

R907-66-8. Execution of Contracts.

UDOT considers no contract effective until funding has been approved and all signature lines have been filled in with the appropriate officer's signature.

KEY: transportation, contracts, reimbursement, bonuses
2001
63-56-13
72-1-201

▼ ————— ▼

End of the Notices of Proposed Rules Section

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 December 17, 2001. At its option, the agency may hold public hearings.

From the end of the waiting period through March 15, 2002, 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 (2001); 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.

Insurance, Administration
R590-186
Bail Bond Surety Business

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 23917
 Filed: 10/24/2001, 15:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of comments received during the comment period and hearing, additional changes are being made to the rule.

SUMMARY OF THE RULE OR CHANGE: The following changes are being made to the rule: Subsection R590-186-4(2) changes where the fee is stated in this rule to Rule R590-102, Insurance Department Fee Payment Deadlines. Subsection R590-186-4(2)(c) eliminates the agency requirement to obtain a Certificate of Appointment for a company they represent. Subsection R590-186-4(3) eliminates the reference to the Certificate of Authority which is no longer required since bail bond companies were changed to agencies. Subsection R590-186-5(1) refers to the department's Rule R590-102 for renewal fee amounts and deadlines. Subsection R590-186-5(2) sets renewal dates for preliminary title reports and current appraisals on personal property, which is to be included in the net worth calculation. Section R590-186-6 updates the rule to follow the current law and procedures requiring the agent to be appointed by the insurer and designated by the surety company for whom they are issuing bonds. Section R590-186-7 changes restrictions on the licensure of a person with a felony conviction and deletes wording to do with bail forfeitures, which is dealt with in the insurance code. Section R590-186-8 updates the rule to take into account that the Bail Bond Board is under the direction of the Insurance Department rather than the courts. The department has investigative power the courts did not have. The Board will be given the findings on all bail bond complaints to come before the department. Section R590-186-13 changes allow the rule to be put into effect after the comment period is concluded with a 45-day period before enforcement of the new changes are begun. (DAR Note: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 1, 2001, issue of the Utah State Bulletin, on page 17. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-35-104, 31A-35-301, 31A-35-401, and 31A-35-405

ANTICIPATED COST OR SAVINGS TO:

❖THE STATE BUDGET: The change to the rule will not impact the insurance department. No rate and form filings will be

required and therefore no additional income will be incurred to the general fund. Also, no additional personnel will be required.

❖LOCAL GOVERNMENTS: This rule will not affect local government. The rule is regulated by state government agency to which all fees are paid by its licensees.

❖OTHER PERSONS: Changes to the rule are for clarification purposes only and will not impact the industry or consumers financially.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Changes to the rule are for clarification purposes only and will not impact the industry or consumers financially.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have absolutely no fiscal impact on businesses.

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

**INSURANCE
 ADMINISTRATION**
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.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 PM on 12/17/2001.

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2001

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-186. Bail Bond Surety Business.
R590-186-11. Definition.

In reference to subsection 31A-35-701 (5) "members of their immediate families" shall be defined as: spouse, children, stepchildren, children-in-law, mother, father, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, step-mother, step-father, step-brother, step-sister, half-brother, and half-sister.

R590-186-12. Penalties.

Violations of this rule are punishable pursuant to Section 31A-2-308.

R590-186-13. [~~Compliance Date.~~Enforcement Date.

[~~This rule is in effect on the date stated in the Notice of Effective Date form relating to this rule that the department files with the Division of Administrative Rules. The effective date will follow a period of 45 days during which interested parties will have~~

~~time to prepare to be in compliance with this rule. It will also be the date on which the department will begin enforcing this rule. The Notice of the Effective Date form is published in the Utah State Bulletin, a publication of the Division of Administrative Rules. The Utah State Bulletin is found at the website, www.rules.state.ut.us. In addition, the effective date may be found at the department's website, www.insurance.state.ut.us, by clicking on Industry Resources and then Rules and scrolling down to the appropriate reference to the rule.]~~The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date. Non-revised provisions are enforceable as of the effective date.

R590-186-14. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any

other provision or application of this rule which can be given effect without the invalid provision or application, and to this and the provisions of this rule are declared to be severable.

KEY: insurance

2001

31A-35-104

31A-35-301

31A-35-401

31A-35-406



End of the Notices of Changes in Proposed Rules Section

The Five Year Notices of Review and Statements of Continuation begin on the following page.

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 (1998).

Administrative Services, Finance **R25-2** Finance Adjudicative Proceedings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24135
FILED: 10/17/2001, 14:09

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: The Utah Administrative Procedures Act, Title 63, Chapter 46b, requires state agencies to allow adjudicative proceedings. Section 63-46b-4 allows agencies to designate all adjudicative proceedings as informal.

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 written comments regarding the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Finance reviewed the rule and determined that we must continue the rule to comply with statute.

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

ADMINISTRATIVE SERVICES
FINANCE
Room 2110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Teddy Cramer at the above address, by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at tcramer@fi.state.ut.us

AUTHORIZED BY: Kim Thorne, Director

EFFECTIVE: 10/17/2001



Agriculture and Food, Animal Industry **R58-2** Diseases, Inspections and Quarantine

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24171
FILED: 10/30/2001, 12:29

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(c)(ii) authorizes the department to initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock. Section 4-31-15 authorizes any person to report vesicular disease in livestock to the department. Section 4-31-17 authorizes the department to quarantine any infected animals.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the

requirements for the control of disease infected animals within the state.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Earl Rogers at the above address, by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at agmain.erogers@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 10/30/2001

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Agriculture and Food, Animal Industry **R58-4** Use of Animal Drugs and Biologicals in the State of Utah

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24178
FILED: 11/01/2001, 11:38

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: Section 4-5-17 authorizes the Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes the requirements for the use of animal drugs and biologicals in the State of Utah.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Earl Rogers at the above address, by phone at 801-538-7162, by FAX at 801-538-7169, or by Internet E-mail at agmain.erogers@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 11/01/2001

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Agriculture and Food, Animal Industry **R58-14** Holding Live Raccoons or Coyotes in Captivity

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24153
FILED: 10/24/2001, 09:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(j) and Section 4-23-11 authorize the Department of Agriculture and Food to make and enforce this rule.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is the intent of this rule to protect the health and safety of individuals by prohibiting the holding of a raccoon or coyote in captivity except as provided by this rule.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Seth Winterton at the above address, by phone at 801-538-7114 or 801-538-7141, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.mleetham@state.ut.us, agmain.swintert@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 10/24/2001

Agriculture and Food, Marketing and Conservation
R65-7
Horse Racing

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24149
FILED: 10/19/2001, 11:55

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: Section 4-38-4 authorizes the Department of Agriculture and Food to make and enforce rules to govern race meets.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to encourage agriculture and breeding of horses in the state of Utah; and to establish the Horse Racing Commissions powers and jurisdiction duties to regulate horse racing withing the state.

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

AGRICULTURE AND FOOD
MARKETING AND CONSERVATION
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Randy Parker or Marolyn Leetham at the above address, by phone at 801-538-7108 or 801-538-7114, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.rparker@state.ut.us or agmain.mleetham@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 10/19/2001

Agriculture and Food, Regulatory Services
R70-920
Packaging and Labeling of Commodities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24154
FILED: 10/24/2001, 09:57

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: Section 4-9-2 authorizes the Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established to regulate the packaging and labeling of commodities being sold in Utah.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brett Gurney or Marolyn Leetham at the above address, by phone at 801-538-7158 or 801-538-7114, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.bgurney@state.ut.us, agmain.mleetham@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 10/24/2001

Agriculture and Food, Regulatory Services
R70-930
Method of Sale of Commodities

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 24155
FILED: 10/24/2001, 10:09

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: Section 4-9-2 authorizes the

Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established to regulate the method of sale of commodities, including berries and small fruits being produced and sold in Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3087, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Brett Gurney or Marolyn Leetham at the above address, by phone at 801-538-7158 or 801-538-7114, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.bgurney@state.ut.us, agmain.mleetham@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 10/24/2001



**Agriculture and Food, Regulatory
 Services
 R70-940
 Standards and Testing of Motor Fuel**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 24156
 FILED: 10/24/2001, 10:46

**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: Section 4-33-4 authorizes the Department of Agriculture and Food to make and enforce rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is established to regulate the standards for the blending and sale of motor fuel in the State of Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3087, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Marolyn Leetham or Brett Gurney at the above address, by phone at 801-538-7114 or 801-538-7158, by FAX at 801-538-7126 or 801-538-7126, or by Internet E-mail at agmain.mleetham@state.ut.us, agmain.bgurney@state.ut.us

AUTHORIZED BY: Cary Peterson, Commissioner

EFFECTIVE: 10/24/2001



**Community and Economic
 Development, Administration
 R182-1
 Government Records Access and
 Management Act Rules**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 24150
 FILED: 10/19/2001, 14:13

**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: This rule is enacted to provide implementation guidance to implement the Government Records Access and Management (GRAMA) laws.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This is a rule to implement state statute. If and when the statute changes, the Agency will need to revisit this rule.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
ADMINISTRATION
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111-2388, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vaughn Walsh at the above address, by phone at 801-538-8680, by FAX at 801-538-8888, or by Internet E-mail at vwalsh@dced.state.ut.us

AUTHORIZED BY: David Winder, Executive Director

EFFECTIVE: 10/19/2001

Community and Economic
Development, Community
Development, History
R212-8
Preservation Easements

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24169
FILED: 10/30/2001, 09:40

**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: To insure the adequate handling of preservation easements and their proper recording in accordance with Sections 9-8-503 and 9-8-504.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Law is active. Hundreds annually seek National Register or State Register listings for their historic properties or sites. No opposition comments received.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, HISTORY
300 RIO GRANDE
SALT LAKE CITY UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3503, or by Internet E-mail at aaldrich@history.state.ut.us

AUTHORIZED BY: Wilson Martin, Program Manager/
Preservation

EFFECTIVE: 10/30/2001

Community and Economic
Development, Community
Development, History
R212-9

Board of State History as the Cultural
Sites Review Committee Review Board

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24170
FILED: 10/30/2001, 09:46

**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: Rules for the Board of State History, federal regulations regarding activities of the Cultural Sites Review Committee, Review Board, are established by Section 9-8-205(d).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Law is active. No opposition comments received.

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

COMMUNITY AND ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT, HISTORY
300 RIO GRANDE
SALT LAKE CITY UT 84101-1182, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3503, or by Internet E-mail at aaldrich@history.state.ut.us

AUTHORIZED BY: Wilson Martin, Program Manager/
Preservation

EFFECTIVE: 10/30/2001

EFFECTIVE: 10/18/2001

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Environmental Quality, Solid and
Hazardous Waste

R315-1

Utah Hazardous Waste Definitions and
References

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24145
FILED: 10/18/2001, 10:25

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: **None.**

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with Environmental Protection Agency (EPA) regulations for program authorization (primacy) and to provide definitions for terms used in the hazardous waste rules. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of Resource Conservation and Recovery Act (RCRA) (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

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Environmental Quality, Solid and
Hazardous Waste

R315-2

General Requirements - Identification
and Listing of Hazardous Waste

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24143
FILED: 10/18/2001, 10:25

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: **None.**

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to specify the general requirements of hazardous waste management. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001

EFFECTIVE: 10/18/2001

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**Environmental Quality, Solid and
Hazardous Waste**

R315-3

**Application and Permit Procedures for
Hazardous Waste Treatment, Storage,
and Disposal Facilities**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24142
FILED: 10/18/2001, 10:24

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide permitting requirements for hazardous waste facilities. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

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**Environmental Quality, Solid and
Hazardous Waste**

R315-4

Procedures for Decisionmaking

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24141
FILED: 10/18/2001, 10:24

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for decisionmaking in the permitting process. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001

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**Environmental Quality, Solid and
Hazardous Waste**

R315-5

**Hazardous Waste Generator
Requirements**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24146
FILED: 10/18/2001, 10:27

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: **None.**

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to specify the requirements for generators of hazardous waste. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



**Environmental Quality, Solid and
Hazardous Waste**

R315-6

**Hazardous Waste Transporter
Requirements**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24140
FILED: 10/18/2001, 10:23

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: **None.**

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to specify the requirements for transporters of hazardous waste. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



Environmental Quality, Solid and
Hazardous Waste

R315-7

Interim Status Requirements for
Hazardous Waste Treatment, Storage,
and Disposal Facilities

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24139
FILED: 10/18/2001, 10:23

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide interim status standards for facilities that treat, store, or dispose of hazardous wastes. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



Environmental Quality, Solid and
Hazardous Waste

R315-8

Standards for Owners and Operators of
Hazardous Waste Treatment, Storage,
and Disposal Facilities

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24138
FILED: 10/18/2001, 10:23

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for facilities that treat, store, or dispose of hazardous waste. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



Environmental Quality, Solid and
Hazardous Waste

R315-9

Emergency Controls

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24144

FILED: 10/18/2001, 10:25

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. RCRA Section 3006 requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it requires anyone who spills a certain quantity of hazardous waste or material which when spilled, becomes a hazardous waste, to report the spill to the proper authorities. The rule also requires that any size spill be remediated. This rule is easier to implement than the Federal requirement for spill reporting. The rule also includes specific wastes that are not covered by the federal rules such as P999, nerve, military, and chemical agents. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



Environmental Quality, Solid and
Hazardous Waste

R315-14

Standards for the Management of
Specific Hazardous Wastes and
Specific Types of Hazardous Waste
Management Facilities

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24137

FILED: 10/18/2001, 10:23

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide standards for specific types of hazardous wastes and specific types of hazardous waste facilities. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



Environmental Quality, Solid and
Hazardous Waste
R315-50
Appendices

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24136

FILED: 10/18/2001, 10:22

**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: Section 19-6-105 requires that minimum standards be established for protection of human health and the environment, for the storage, collection, transport, recovery, treatment, and disposal of solid waste. Section 3006 of RCRA requires that authorized State programs be "equivalent" to the Federal program (42 USC 6926).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary for Utah to maintain its equivalency with EPA regulations for program authorization (primacy) and to provide appendices that are part of the hazardous waste rules. EPA authorization allows the Division to administer the hazardous program in lieu of EPA as allowed by Section 3006 of RCRA (42 USC 6926).

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@deq.state.ut.us

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/18/2001



Insurance, Administration
R590-145
Accelerated Benefits Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 24162

FILED: 10/25/2001, 13:04

**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: Section 31A-22-201 is the department's general rulemaking authority and allows the commissioner authority "to make rules to implement the provisions of this title...". The title section that this rule implements is Section 31A-21-201 and requires that forms used and sold by the insurer not be unfair, inequitable, etc.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Accelerated benefit policies are options to viatical settlement plans allowing people short-term terminal illnesses to receive the benefits from their life insurance policies, oftentimes in order to help pay for their medical costs etc. It is important that this rule remain in effect so the department can continue to monitor and regulate the terms, conditions and criteria for payment included in these policies. This is to ensure that the insured gets a reasonable return on the benefits they have purchased at a time so critically needed.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@insurance.state.ut.us

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 10/25/2001



Public Safety, Driver License
R708-20
Motor Vehicle Accident Prevention
Course Standards

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 24173
 FILED: 10/30/2001, 13:37

**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: This rule is authorized by Section 31A-19a-211 which allows an insured driver of a motor vehicle to receive an appropriate insurance rate reduction if the insured is 55 years of age or older and has successfully completed an approved motor vehicle accident prevention course as specified by statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: We need to continue this rule so qualified insured drivers age 55 and older can continue to receive an appropriate reduction in their insurance premium rates by completing an approved motor vehicle accident prevention course.

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

PUBLIC SAFETY
 DRIVER LICENSE
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W 3RD FL
 SALT LAKE CITY UT 84119-5595, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@dps.state.ut.us

AUTHORIZED BY: Judy Hamaker Mann, Director

EFFECTIVE: 10/30/2001



End of the Five-Year Notices of Review and Statements of Continuation Section

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

Agriculture and Food

Regulatory Services

No. 24043 (AMD): R70-410. Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes.
Published: October 1, 2001
Effective: November 1, 2001

Commerce

Consumer Protection

No. 23971 (AMD): R152-2 (Changed to R152-11). Utah Consumer Sales Practices Act.
Published: September 1, 2001
Effective: October 26, 2001

Occupational and Professional Licensing

No. 24008 (AMD): R156-46a. Hearing Instrument Specialist Licensing Act Rules.
Published: September 15, 2001
Effective: October 16, 2001

No. 24002 (AMD): R156-60d. Substance Abuse Counselor Act Rules.
Published: September 15, 2001
Effective: October 18, 2001

No. 24057 (AMD): R156-66 (Changed to R151-33). Utah Professional Boxing Regulation Act Rules.
Published: October 1, 2001
Effective: November 1, 2001

No. 23593 (Second CPR): R156-67. Utah Medical Practice Act Rules.
Published: October 1, 2001
Effective: November 1, 2001

Environmental Quality

Air Quality

No. 23835 (CPR): R307-220. Section III, Small Municipal Waste Combustion Units.
Published: October 1, 2001
Effective: November 1, 2001

Water Quality

No. 23767 (CPR): R317-11. Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems.
Published: September 15, 2001
Effective: October 23, 2001

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Children's Health Insurance Program

No. 24030 (REP): R382-20. Provider Assessment.
Published: September 15, 2001
Effective: November 1, 2001

Health Care Financing, Coverage and Reimbursement Policy

No. 24031 (AMD): R414-3A-800. Co-payment Policy.
Published: September 15, 2001
Effective: November 1, 2001

No. 24032 (AMD): R414-10. Physician Services.
Published: September 15, 2001
Effective: November 1, 2001

No. 24033 (AMD): R414-11. Podiatry Services.
Published: September 15, 2001
Effective: November 1, 2001

No. 24012 (AMD): R414-306. Program Benefits.
Published: September 15, 2001
Effective: November 1, 2001

No. 24034 (REP): R414-401. Nursing Care Facility Assessment.
Published: September 15, 2001
Effective: November 1, 2001

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Published: September 15, 2001
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Published: September 15, 2001
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Published: September 15, 2001
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Published: September 15, 2001
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Published: September 15, 2001
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Published: September 15, 2001
Effective: November 1, 2001

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Published: September 15, 2001
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Published: September 15, 2001
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No. 24056 (AMD): R657-20. Falconry.
Published: October 1, 2001
Effective: November 1, 2001

No. 24025 (AMD): R657-26. Adjudicative Proceedings for a License, Permit, Tag, or Certificate of Registration.
Published: September 15, 2001
Effective: October 17, 2001

No. 24058 (AMD): R657-44. Big Game Depredation.
Published: October 1, 2001
Effective: November 1, 2001

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No. 24036 (AMD): R865-4D-22. Reduction in Special Fuel Tax for Suppliers Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-301.
Published: September 15, 2001
Effective: October 16, 2001

No. 24037 (AMD): R865-13G-15. Reduction in Motor Fuel Tax for Distributors Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-201.
Published: September 15, 2001
Effective: October 16, 2001

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No. 24038 (AMD): R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.
Published: September 15, 2001
Effective: October 16, 2001

No. 23994 (AMD): R884-24P-33. 2001 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.
Published: September 1, 2001
Effective: October 16, 2001

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Published: July 1, 2001
Effective: October 29, 2001

End of the Notices of Rule Effective Dates Section

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2001, including notices of effective date received through November 1, 2001, the effective dates of which are no later than November 15, 2001. 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).

DAR NOTE: Because of space constraints, the Keyword Index is not included this *Bulletin*.

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	

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R58-2	Diseases, Inspections and Quarantines	24171	5YR	10/30/2001	2001-22/93
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R432-1-3	Definitions	23784	AMD	08/07/2001	2001-12/51
R432-2	General Licensing Provisions	23478	NSC	04/01/2001	Not Printed
R432-3	General Health Care Facility Rules Inspection and Enforcement	23479	NSC	04/01/2001	Not Printed
R432-4	General Construction	23480	NSC	04/01/2001	Not Printed
R432-5	Nursing Facility Construction	23481	NSC	04/01/2001	Not Printed
R432-6	Assisted Living Facility General Construction	23482	NSC	04/01/2001	Not Printed
R432-7	Specialty Hospital - Psychiatric Hospital Construction	23483	NSC	04/01/2001	Not Printed
R432-8	Specialty Hospital - Chemical Dependency/Substance Abuse Construction	23484	NSC	04/01/2001	Not Printed
R432-9	Specialty Hospital - Rehabilitation Construction Rule	23485	NSC	04/01/2001	Not Printed
R432-10	Specialty Hospital - Chronic Disease Construction Rule	23486	NSC	04/01/2001	Not Printed
R432-11	Orthopedic Hospital Construction	23487	NSC	04/01/2001	Not Printed
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	23488	NSC	04/01/2001	Not Printed
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	23489	NSC	04/01/2001	Not Printed
R432-14	Birthing Center Construction Rule	23490	NSC	04/01/2001	Not Printed
R432-16	Hospice Inpatient Facility Construction	23491	NSC	04/01/2001	Not Printed
R432-30	Adjudication Procedure	23492	NSC	04/01/2001	Not Printed
R432-35	Background Screening	23493	NSC	04/01/2001	Not Printed
R432-100	General Hospital Standards	23494	NSC	04/01/2001	Not Printed
R432-101	Specialty Hospital - Psychiatric	23495	NSC	04/01/2001	Not Printed
R432-102	Specialty Hospital - Chemical Dependency/Substance Abuse	23496	NSC	04/01/2001	Not Printed
R432-103	Specialty Hospital - Rehabilitation	23497	NSC	04/01/2001	Not Printed

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R432-152	Mental Retardation Facility	23502	NSC	04/01/2001	Not Printed
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R432-201	Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule	23504	NSC	04/01/2001	Not Printed
R432-270	Assisted Living Facilities	23380	AMD	03/30/2001	2001-1/10
R432-270	Assisted Living Facilities	23505	NSC	04/01/2001	Not Printed
R432-300	Small Health Care Facility - Type N	23506	NSC	04/01/2001	Not Printed
R432-500	Freestanding Ambulatory Surgical Center Rules	23567	NSC	04/01/2001	Not Printed
R432-500	Freestanding Ambulatory Surgical Center Rules	23564	AMD	08/13/2001	2001-8/63
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R432-650	End Stage Renal Disease Facility Rules	23562	NSC	04/01/2001	Not Printed
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LABOR COMMISSION

Antidiscrimination and Labor, Antidiscrimination

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PUBLIC SAFETY

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R710-6	Liquefied Petroleum Gas Rules	23367	AMD	01/16/2001	2000-24/63
R710-6	Liquefied Petroleum Gas Rules	23880	5YR	07/05/2001	2001-15/55
R710-6	Liquefied Petroleum Gas Rules	23995	EMR	09/04/2001	2001-18/53
R710-9	Rules Pursuant to the Utah Fire Prevention Law	23340	AMD	01/16/2001	2000-24/64

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<u>Law Enforcement and Technical Services, Criminal Identification (Changed to Criminal Investigations and Technical Services, Criminal Identification--02/01/2001)</u>					
R722-2 (Changed to R722-900)	Review and Challenge of Criminal Record	23444	NSC	02/01/2001	Not Printed
<u>Law Enforcement and Technical Services, Regulatory Licensing (Changed to Criminal Investigations and Technical Services, Criminal Identification--02/01/2001)</u>					
R724-4 (Changed to R722-300)	Concealed Firearm Permit Rule	23445	NSC	02/01/2001	Not Printed
R724-6 (Changed to 722-340)	Emergency Vehicles	23446	NSC	02/01/2001	Not Printed
R724-7 (Changed to R722-320)	Undercover Identification	23447	NSC	02/01/2001	Not Printed
R724-9 (Changed to R722-330)	Licensing of Private Investigations	23448	NSC	02/01/2001	Not Printed
R724-10 (Changed to R722-310)	Regulation of Bail Bond Recovery and Enforcement Agents	23449	NSC	02/01/2001	Not Printed
<u>Peace Officer Standards and Training</u>					
R728-205	Council Resolution of Public Safety Retirement Eligibility	23627	NSC	05/01/2001	Not Printed
R728-404	Basic Training Basic Academy Rules	23628	NSC	05/01/2001	Not Printed
R728-409	Refusal, Suspension or Revocation of Peace Officer Certification	23629	NSC	05/01/2001	Not Printed
R728-500	Utah Peace Officer Standards and Training In- Service Training Certification Procedures	23630	NSC	05/01/2001	Not Printed
PUBLIC SERVICE COMMISSION					
<u>Administration</u>					
R746-200	Residential Utility Service Rules for Electric, Gas, Water and Sewer Utilities	23353	AMD	02/15/2001	2000-24/66
R746-240	Telecommunication Service Rules	23354	AMD	02/15/2001	2000-24/67
R746-340	Service Quality for Telecommunications Corporations	23328	AMD	see CPR	2000-23/49
R746-340	Service Quality for Telecommunications Corporations	23328	CPR	03/27/2001	2001-4/56
R746-341	Lifeline Rule	23376	AMD	03/01/2001	2001-1/30
R746-347	Extended Area Service (EAS)	23844	REP	08/01/2001	2001-13/73
R746-352	Price Cap Regulation	23232	NEW	see CPR (First)	2000-21/26
R746-352	Price Cap Regulation	23232	CPR (First)	see CPR (Second)	2001-5/32
R746-352	Price Cap Regulation	23232	CPR (Second)	06/15/2001	2001-7/38
R746-360	Universal Public Telecommunications Service Support Fund	23271	AMD	02/15/2001	2000-22/45
R746-360-4	Application of Fund Surcharges to Customer Billings	23886	AMD	09/01/2001	2001-15/28
R746-360-9	One-Time Distributions From the Fund	23916	AMD	10/15/2001	2001-15/29

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R746-409	Pipeline Safety	23705	AMD	06/28/2001	2001-10/42
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R765-608	Utah Engineering and Computer Science Loan Forgiveness Program	23907	NEW	09/01/2001	2001-15/31
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	23596	NEW	05/16/2001	2001-8/78
R765-649	Utah Higher Education Assistance Authority (UHEAA) Privacy Policy	23782	AMD	07/17/2001	2001-12/71
SCHOOL AND INSTITUTIONAL TRUST LANDS					
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R850-50-400	Permit Approval Process	23558	AMD	05/02/2001	2001-7/22
R850-140	Development Property	24053	5YR	09/14/2001	2001-19/45
TAX COMMISSION					
<u>Administration</u>					
R861-1A-9	Tax Commission as Board of Equalization Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006	23846	AMD	08/02/2001	2001-13/75
R861-1A-17	Definition of Return Pursuant to Utah Code Ann. Sections 59-1-210 and 59-1-403	23717	AMD	07/04/2001	2001-10/44
R861-1A-24	Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.1, 63-46b-8, and 63-46b-10	23988	NSC	09/01/2001	Not Printed
R861-1A-36	Signatures Defined Pursuant to Utah Code Ann. Sections 41-1a-209, 59-10-512, and 59-12-107	23403	AMD	04/11/2001	2001-3/76
<u>Auditing</u>					
R865-4D-22	Reduction in Special Fuel Tax for Suppliers Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-301	24036	AMD	10/16/2001	2001-18/43
R865-6F-1	Corporation Franchise Privilege - Right to do Business - Nature of Liability and How Terminated Pursuant to Utah Code Ann. Sections 16-10a-1501 through 16-10a-1522	23555	NSC	04/01/2001	Not Printed
R865-6F-15	Installment Basis of Reporting Income in Year of Termination Pursuant to Utah Code Ann. Section 59-7-119	23556	NSC	04/01/2001	Not Printed
R865-6F-27	Order of Credits Applied Against Utah Corporate Franchise Tax Due Pursuant to Utah Code Ann. Sections 9-2-413, 59-6-102, 59-7-104, 59-7-601 through 59-7-606, 59-10-603, and 59-13-202	23989	NSC	09/01/2001	Not Printed
R865-9I-14	Requirements of Withholding Pursuant to Utah Code Ann. Sections 59-10-401, 59-10-402, and 59-10-403	23910	AMD	09/05/2001	2001-15/33
R865-9I-42	Order of Credits Applied Against Utah Individual Income Tax Due Pursuant to Utah Code Ann. Sections 9-2-413, 59-6-102, 59-10-108, 59-10-108.5, 59-10-108.7, 59-10-109, 59-10-127, 59-10-128, 59-10-129, 59-10-130, 59-10-602, 59-10-603, and 59-13-202	23990	NSC	09/01/2001	Not Printed

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R865-13G-15	Reduction in Motor Fuel Tax for Distributors Subject to Navajo Nation Fuel Tax Pursuant to Utah Code Ann. Section 59-13-201	24037	AMD	10/16/2001	2001-18/44
R865-19S-4	Collection of Tax Pursuant to Utah Code Ann. Section 59-12-107	23714	AMD	09/05/2001	2001-10/45
R865-19S-85	Sales and Use Tax Exemptions for New or Expanding Operations and Normal Operating Replacements Pursuant to Utah Code Ann. Section 59-12-104	23716	AMD	07/04/2001	2001-10/46
R865-19S-90	Telephone Service Defined Pursuant to Utah Code Ann. Section 59-12-103	23911	AMD	09/05/2001	2001-15/34
R865-19S-93	Waste Tire Recycling Fee Pursuant to Utah Code Ann. Sections 26-32a-101 through 26-32a-113	23991	NSC	09/01/2001	Not Printed
R865-19S-98	Sales to Nonresidents of Vehicles, Off-highway Vehicles, and Boats Required to be Registered, and Sales to Nonresidents of Boat Trailers and Outboard Motors Pursuant to Utah Code Ann. Section 59-12-104	23912	AMD	09/05/2001	2001-15/35
R865-19S-106	Tourism Marketing Performance Fund Pursuant to Utah Code Ann. Section 9-2-1702 and 9-2-1703	23913	AMD	09/05/2001	2001-15/37
R865-21U	Use Tax	23572	5YR	03/27/2001	2001-8/88
R865-21U-6	Liability of Purchasers and Receipt for Payment to Retailers Pursuant to Utah Code Ann. Section 59-12-107	23553	NSC	04/01/2001	Not Printed
<u>Collections</u>					
R867-2B	Delinquent Tax Collection	23574	5YR	03/27/2001	2001-8/89
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R873-22M-35	Reissuance of Personalized License Plates Pursuant to Utah Code Ann. Sections 41-1a-413 and 41-1a-1211	23718	AMD	07/04/2001	2001-10/48
<u>Property Tax</u>					
R884-24P-19	Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702	24038	AMD	10/16/2001	2001-18/44
R884-24P-27	Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5	23992	NSC	09/01/2001	Not Printed
R884-24P-33	2001 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301	23994	AMD	10/16/2001	2001-17/22
R884-24P-49	Calculating the Utah Apportioned Value of a Rail Car Fleet Pursuant to Utah Code Ann. Section 59-2-201	23475	AMD	04/11/2001	2001-4/42
R884-24P-62	Valuation of State Assessed Utility and Transportation Properties Pursuant to Utah Code Ann. Section 59-2-201	23395	AMD	05/14/2001	2001-2/11
R884-24P-65	Proportional Assessment of Transitory Personal Property Pursuant to Utah Code Ann. Section 59-2-402	23316	AMD	02/20/2001	2000-23/54
R884-24P-66	Appeal to County Board of Equalization Pursuant to Utah Code Ann. Section 59-2-1004	23847	AMD	08/02/2001	2001-13/77

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R907-3-1	Additional Requirements: Policy	23633	NSC	05/01/2001	Not Printed
R907-40	External Relations	23634	NSC	05/01/2001	Not Printed
R907-63-1	Authority and Purpose	23623	NSC	05/01/2001	Not Printed
<u>Motor Carrier</u>					
R909-1	Safety Regulations for Motor Carriers	23460	AMD	03/20/2001	2001-4/44
R909-1	Safety Regulations for Motor Carriers	23573	NSC	04/01/2001	Not Printed
R909-1	Safety Regulations for Motor Carriers	23590	NSC	05/01/2001	Not Printed
R909-4	Safety Regulations for Tow Truck (Wrecker) Operations-Tow Truck Requirements, Equipment and Operations	23565	NSC	04/01/2001	Not Printed
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification	23993	NEW	10/02/2001	2001-17/30
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	23461	AMD	03/20/2001	2001-4/45
R909-75	Safety Regulations for Motor Carriers Transporting Hazardous Materials and/or Hazardous Wastes	23857	AMD	08/15/2001	2001-14/43
<u>Motor Carrier, Ports of Entry</u>					
R912-8	Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah	23698	5YR	04/27/2001	2001-10/91
R912-16	Special Mobile Equipment	23625	NSC	05/01/2001	Not Printed
<u>Operations, Construction</u>					
R916-2	Prequalification of Contractors	23608	NSC	05/01/2001	Not Printed
R916-3	DESIGN-BUILD Contracts	23609	NSC	05/01/2001	Not Printed
R916-3	DESIGN-BUILD Contracts	23750	5YR	05/14/2001	2001-11/119
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R918-3	Snow Removal	23379	AMD	02/15/2001	2001-1/32
<u>Operations, Traffic and Safety</u>					
R920-2	Traffic Control Systems for Railroad-Highway Grade Crossing	23635	NSC	05/01/2001	Not Printed
R920-3	Manual of Uniform Traffic Control Devices, Part IV	23636	NSC	05/01/2001	Not Printed
R920-6	Snow Tire and Chain Requirements	23610	NSC	05/01/2001	Not Printed
R920-7	Public Safety Program Signing	23611	NSC	05/01/2001	Not Printed
<u>Program Development</u>					
R926-2	Evaluation of Proposed Additions to the State Highway System	23612	NSC	05/01/2001	Not Printed
R926-3	Class B and Class C Road Funds	23613	NSC	05/01/2001	Not Printed
R926-5	State Park Access Highways Improvement Program	23614	NSC	05/01/2001	Not Printed

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R930-1	Installation of New Mailboxes and Correction of Nonconforming Mailboxes	23615	NSC	05/01/2001	Not Printed
R930-2	Public Hearings	23616	NSC	05/01/2001	Not Printed
R930-3	Highway Noise Abatement	23617	NSC	05/01/2001	Not Printed
R930-5	Establishment and Regulation of At-Grade Railroad Crossings	23618	NSC	05/01/2001	Not Printed
R930-6	Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	23198	AMD	01/19/2001	2000-21/43
R930-6	Rules for the Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way	23443	NSC	02/12/2001	Not Printed
<u>Preconstruction, Right-of-Way Acquisition</u>					
R933-1	Right-of-Way Acquisition	23637	NSC	05/01/2001	Not Printed
R933-2	Control of Outdoor Advertising Signs	23942	NSC	08/01/2001	Not Printed
R933-2-15	Special Permits for Olympic Pageants	23622	AMD	07/09/2001	2001-9/128
R933-3	Relocation of Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways	23619	NSC	05/01/2001	Not Printed
R933-4	Bus Shelters	23536	AMD	04/18/2001	2001-6/45
WORKFORCE SERVICES					
<u>Employment Development</u>					
R986-200	Family Employment Program	23721	AMD	07/01/2001	2001-10/49
R986-600	Workforce Investment Act	23722	NEW	07/01/2001	2001-10/50
R986-601	Authority and Definitions and Programs Authorized under JTPA	23723	REP	07/01/2001	2001-10/57
R986-602	General Administrative Provisions	23724	REP	07/01/2001	2001-10/67
R986-603	Participant Data System Procedures	23725	REP	07/01/2001	2001-10/75
R986-700	Child Care Assistance	23726	AMD	07/01/2001	2001-10/77
R986-700-705	Eligible Providers and Provider Settings	23969	NSC	08/01/2001	Not Printed
R986-700-713	Amount of CC Payment	23970	AMD	09/20/2001	2001-16/34
R986-900-902	Options and Waivers	23474	AMD	03/20/2001	2001-4/47
R986-900-902	Options and Waivers	23727	AMD	07/01/2001	2001-10/79
<u>Workforce Information and Payment Services</u>					
R994-302	Payment by Employer	23744	5YR	05/11/2001	2001-11/119
R994-308	Bond or Security Requirement	23745	5YR	05/11/2001	2001-11/120
R994-403-102a	Filing a New Claim	23824	AMD	08/09/2001	2001-13/78
R994-404-103	90-Day Filing Limitation	23825	AMD	10/29/2001	2001-13/79
R994-406-304	Appeal Time Limitation for Decisions Which are Mailed	23525	AMD	04/05/2001	2001-5/28