

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Kenneth A. Hansen, Director
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, 4120 State Office Building, Salt Lake City, Utah 84114, 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.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2005-0015: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

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

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

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment;

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

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the constitution and the laws of the State of Utah do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of August 10, 2005, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of August, 2005.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2005/0015

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between August 2, 2005, 12:00 a.m., and August 15, 2005, 11:59 p.m. are included in this, the September 1, 2005, 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 October 3, 2005. 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 December 30, 2005, 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, Surplus Property
R28-1
State Surplus Property Disposal

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 28133
FILED: 08/09/2005, 13:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to define the distribution process for donating technology equipment to persons with disabilities defined by H.B. 188 (2004 session). (DAR NOTE: H.B. 188 (2004) is found at UT L 2004 Ch 342, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: This rule makes the following changes: 1) clarifies the donation procedure required to comply with Section 63A-9-801.1 which is the distribution of technology and computer equipment to persons with disabilities; 2) modifies related party language to comply with the Attorney General's recommendation; 3) modifies the language regarding payment and remuneration accepted by Utah's State Agency for Surplus Property to include purchasing cards, et al; and 4) allows the surplus manager or designee to waive the 30-day hold on property if deemed in the best interest of the state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-9-808.1

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This change is estimated to reduce state surplus revenues by \$30,000 annually.
- ❖ LOCAL GOVERNMENTS: This change has no fiscal impact on local government because the rule only applies to state agencies.
- ❖ OTHER PERSONS: This change has no negative fiscal impact on any other persons. Persons with disabilities are able to receive used state technology equipment by donation which has a positive fiscal impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change has no negative fiscal impact on any other persons. Persons with disabilities are able to receive used state technology equipment by donation which has a positive fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is being modified as a result of Legislation (H.B. 188 (2004)). This rule will have a fiscal impact on the State Surplus Property program only. D'Arcy Dixon-Pignanelli, Executive Director

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS, SURPLUS PROPERTY
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:
Steve Saltzgiver at the above address, by phone at 801-538-3452, by FAX at 801-538-1773, or by Internet E-mail at ssaltzgiver@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: D'Arcy Dixon Pignanelli, Executive Director

**R28. Administrative Services, Fleet Operations, Surplus Property.
R28-1. State Surplus Property Disposal.
R28-1-3. Procedures.**

A. State-owned personal property shall not be destroyed, sold, transferred, traded-in, traded, discarded, donated or otherwise disposed of without first submitting a properly completed form SP-1 to and receiving authorization from the USASP.

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

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

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

D. State-owned information technology equipment may be transferred directly to public institutions, such as schools and libraries by the owning agency. However, a form SP-1 must still be completed and forwarded to the USASP to account for the transfer of the equipment. In such cases, the USASP will not assess a fee. Similarly, the USASP is authorized to donate computer equipment received as surplus property from agencies to schools that have submitted requests for computer equipment directly to the USASP.

E. Pursuant to the provisions of section 63A-9-808.1, state-owned information technology equipment may be transferred directly to Non-profit entities for distribution to, and use by, persons with a disability as defined in subsections 62A-5-101(4)(a)(i) and (ii). However, interagency transfers and sales of surplus property to state and local agencies within the 30-day period under section 63A-9-808 shall have priority over transfers under this subsection. The 30-day holding period may be waived if shown to be in the best interest of the state.

F. Requests for state-owned information technology equipment from non-profit entities shall be:

1. Submitted, in writing, on the non-profit entity's official letterhead, to the Department of Human Services, Division of Services for People with Disabilities (DSPD);

2. Reviewed and approved by DSPD and forwarded to the USASP manager to properly track and arrange for distribution.

G. State agencies transferring state-owned information technology equipment to non-profit entities for distribution to, and use by persons with a disability as defined in subsections 62A-5-101(4)(a)(i) and (ii), shall provide the USASP with completed SP-1 forms in order to account for the transfer of said equipment. In such cases, the USASP will not assess a fee to the donating agency.

H. Pursuant to the provisions of subsection 63A-9-808.1(4), the USASP shall prepare an annual report to DSPD containing the names of non-profit entities that received state-owned information technology equipment under subsection 63A-9-808.1(2), and the types and amounts of equipment received.

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

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

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

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

R28-1-4. Related Party Transactions.

A. The USASP has a duty to the public to ensure that State-owned surplus property is disposed of at fair market value, in an independent and ethical manner, and that the property or the value of the property has not been misrepresented. A conflict of interest may exist or appear to exist when a related party attempts to purchase surplus property.

B. A related party is defined as someone who may fit into any of the following categories pertaining to the surplus property in question:

1. Has purchasing authority.
2. Has maintenance authority.
3. Has disposition or signature authority.
4. Has authority regarding the disposal price.
5. Has access to restricted information.
6. Is perceived to be a related party using other criteria which may prohibit independence.

C. Owning state agencies ~~[must]~~may list any recommended purchasers on the standard form SP-1 ~~[and specify whether they are considered to be a related party.]~~Final decision rests with USASP as to selling price and buyer.

D. When a prospective purchaser is identified or determined to be a related party, the USASP will employ one of the following procedures:

1. The USASP may require written justification and authorization from the Department or Division Head or authorized agent. Justification may include reference to maintenance history, purchase price and the absence of conflicts of interest. If the related party is an authorized agent, a higher approval may be sought.

2. The USASP may choose to hold the property for sale by public auction or sealed bid. The prospective buyer may then compete against other bidders.

3. The USASP may hold the property for a 30[-]-day period before allowing the related party the opportunity to purchase the property, thus allowing for purchase of the property in accordance with the priorities listed below. The 30-day holding period may be waived if shown to be in the best interest of the state.

R28-1-5. Priorities.

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

B. Property received by the USASP that is determined to be unique, in short supply or in high demand by public agencies shall be held for a period of 30 days before being offered for sale to the general public. The 30-day holding period may be waived if shown to be in the best interest of the state.

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

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

D. State-owned personal property that is not purchased by or transferred to public agencies during the 30-day hold period may be offered for public sale. The 30-day holding period may be waived if shown to be in the best interest of the state.

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

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

R28-1-7. Payment.

A. Payment received from public purchasers may be in the form of cash and/or certified funds, authorized bank credit cards, and business or personal checks. ~~[Personal checks must be guaranteed with a bankcard and]~~may not be accepted for amounts exceeding \$200. ~~[Personal checks that are not guaranteed with a bankcard, or]~~~~[Two]~~2]-party checks shall not be accepted.

B. Payment received from state subdivisions shall be in the form of agency or subdivision check or purchasing card.

C. Payment made by public purchasers shall be at the time of purchase and prior to removal of the property purchased. Payment for purchases by state subdivisions shall be within 60 days following the purchase and removal of the property.

D. The USASP Manager or designee may make exceptions to the payment provisions of this rule for good cause. A good cause exception requires a weighing of:

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

R28-1-8. Bad Debt Collection.

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

B. In the event that a check is returned to the USASP is returned for "insufficient fund," the USASP may:

1. Prohibit the debtor from making any future purchases from the USASP until the debt is paid in full.

2. Have division accountant send a certified letter to the debtor stating that:

(a) the debtor has 15 days to pay the full amount owed with cash or certified funds, including any and all additional fees associated with the collection process, such as returned check fees; and

(b) If the balance is not paid within the 15 day period, the matter will be referred to the Office of State Debt Collection for formal collection proceedings.

C. Debts for which payments have not been received in full within the 15 day period referred to above, shall be assigned to the Office of State Debt Collection in accordance with statute.

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

A. State-owned surplus property may be purchased at any time by the general public, subject to any 30-day holding period that may be assigned by USASP management. The 30-day holding period may be waived if shown to be in the best interest of the state.~~[applicable, as described in R28-1-5.]~~

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

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

D. The frequency of public auctions, for either State-owned or federal surplus property will be regulated by current law as applicable, the volume of items held in inventory at the USASP, and the profitability of conducting auctions versus other approaches to disposing of surplus property.

KEY: state property
~~[November 17, 2004]~~**2005**
Notice of Continuation March 5, 2004
63A-9-801
63A-9-808.1



Commerce, Real Estate
R162-2-2
 Licensing Procedure

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 28128
 FILED: 08/04/2005, 08:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the rule change is to clarify what type of equivalent education the Division of Real Estate will accept toward the real estate licensing requirements.

SUMMARY OF THE RULE OR CHANGE: The Division of Real Estate will be able to waive all or part of a candidate's educational requirement for a real estate license by virtue of college level courses that are equivalent to the required prelicensing education.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2-5.5(1)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The courses that are required for a real estate agent's or broker's prelicensing education requirement do not affect the state budget.

❖ LOCAL GOVERNMENTS: None--The courses that are required for a real estate agent's or broker's prelicensing education do not affect local government.

❖ OTHER PERSONS: The only persons who will be affected by this rule change will be candidates for a real estate agent's or broker's license, and the providers of those education courses. To the extent that some or all of the required prelicensing education will be waived, the rule change will save applicants money and result in a small loss of revenue for education providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs for candidates for a real estate agent's or broker's license. The rule change will save some candidates the cost of taking courses that are the equivalent of courses they have already taken in college.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies the type of education that might be deemed equivalent for purposes of waiving any of the education courses required for licensure. No fiscal impact to businesses is anticipated as a result of this clarification. Jason P. Perry, Acting Executive Director

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

COMMERCE
 REAL ESTATE
 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:
 Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Dexter Bell, Director



R162. Commerce, Real Estate.

R162-2. Exam and License Application Requirements.

R162-2-2. Licensing Procedure.

2.2. Within 90 days after successful completion of the exam, the applicant shall return to the Division each of the following:

2.2.1. A report of the examination indicating that both portions of the exam have been passed within a six-month period of time.

2.2.2. The license application form required by the Division. The application form shall include the licensee's business and home address. A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

2.2.3. The non-refundable fees which will include the appropriate license fee as authorized by Section 61-2-9(5) and the Recovery Fund fee as authorized by Section 61-2a-4.

2.2.4. Documentation indicating successful completion of the required education taken within the year prior to licensing. If the applicant has been previously licensed in another state which has substantially equivalent licensing requirements, he may apply to the Division for a waiver of all or part of the educational requirement.

2.2.4.1. Candidates for the license of sales agent will successfully complete 90 classroom hours of approved study in principles and practices of real estate. Experience will not satisfy the education requirement. Membership in the Utah State Bar will waive this requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.4.2. Candidates for the license of associate broker or principal broker will successfully complete 120 classroom hours of approved study consisting of at least 24 classroom hours in brokerage management, 24 classroom hours in advanced appraisal, 24 classroom hours in advanced finance, 24 hours in advanced property management and 24 classroom hours in advanced real estate law. Experience will not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.5. The principal broker and associate broker applicant will submit the forms required by the Division documenting a minimum of three years licensed real estate experience and a total of at least 60 points accumulated within the five years prior to licensing. A minimum of two years (24 months) and at least 45 points will be accumulated from Tables I and/or II. The remaining 15 points may be accumulated from Tables I, II or III.

TABLE I - REAL ESTATE TRANSACTIONS

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:	
(a) One unit dwelling	2.5 points
(b) Two- to four-unit dwellings	5 points
(c) Apartments, 5 units or over	10 points
(d) Improved lot	2 points
(e) Vacant land/subdivision	10 points
COMMERCIAL	
(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points

(i) Retail building	10 points
(j) Leasing of commercial space	5 points

TABLE II - PROPERTY MANAGEMENT

RESIDENTIAL	
(a) Each unit managed	.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building	
(b) Each contract OR each separate property address or location for which licensee has direct responsibility	1 pt/month

2.2.6. The Principal Broker may accumulate additional experience points by having participated in real estate related activities such as the following:

TABLE III - OPTIONAL

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/month
Licensed General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

2.2.7. If the review of an application has been performed by the Division and the Division has denied the application based on insufficient experience, and if the applicant believes that the Experience Points Tables do not adequately reflect the amount of the applicant's experience, the applicant may petition the Real Estate Commission for reevaluation by making a written request within 30 days after the denial stating specific grounds upon which relief is requested. The Commission shall thereafter consider the request and issue a written decision.

2.2.8. An applicant previously licensed in another state will provide a written record of his license history from that state and documentation of disciplinary action, if any, against his license.

2.2.9. Determining fitness for licensure. The Commission and the Division will consider information necessary to determine whether an applicant meets the requirements of honesty, integrity, truthfulness, reputation and competency, which shall include the following:

2.2.9.1. Whether an applicant has been denied a license to practice real estate, property management, or any regulated profession, business, or vocation, or whether any license has been suspended or revoked or subjected to any other disciplinary sanction by this or another jurisdiction;

2.2.9.2. Whether an applicant has been guilty of conduct or practices which would have been grounds for revocation or suspension of license under Utah law had the applicant then been licensed;

2.2.9.3. Whether a civil judgment has been entered against the applicant based on a real estate transaction, and whether the judgment has been fully satisfied;

2.2.9.4. Whether a civil judgment has been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.

2.2.9.5. Whether restitution ordered by a court in a criminal conviction has been fully satisfied;

2.2.9.6. Whether the probation in a criminal conviction or a licensing action has been completed and fully served; and

2.2.9.7. Whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a license, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

KEY: real estate business

~~June 3, 1999~~ **2005**

Notice of Continuation June 12, 2002

61-2-5.5



Education, Administration
R277-515
Approval of Educator Preparation Programs

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 28145

FILED: 08/15/2005, 11:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because language relating to educator preparation has been incorporated into Rule R277-502.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are no anticipated cost or savings to the state budget. This rule is being repealed because the language in the rule has been incorporated into another rule.
- ❖ **LOCAL GOVERNMENTS:** There are no anticipated cost or savings to local government. This rule is being repealed because the language in the rule has been incorporated into another rule.
- ❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. This rule is being repealed because the language in the rule has been incorporated into another rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Requirements that are in this rule have been provided for in another rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~**R277-515. Approval of Educator Preparation Programs.**~~

~~**R277-515-1. Definitions.**~~

- ~~A. "Board" means the Utah State Board of Education.~~
- ~~B. "Approval" means the official action of the Board accepting an educator preparation program. The Board accepts graduates of approved programs as qualified for certification.~~
- ~~C. "Program audit" means review of the approval report to determine the extent of response to recommendations and implementation of modifications to assure continued acceptance of persons recommended for certification.~~

~~**R277-515-2. Authority and Purpose.**~~

- ~~A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-6-101(1) and (2) which permits the Board to issue certificates for educators and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~
- ~~B. This rule specifies the standards and procedures by which educator preparation programs are approved for certification recommendation purposes. Persons completing approved programs may be accepted for Board certification upon the recommendation of the head of the approved program.~~

~~**R277-515-3. Program Approval.**~~

~~All of the programs in an institution which lead to certification must be officially approved by the Board. A formal evaluation of each teacher education institution is carried out at least once every six years with an interim program audit conducted under the direction of the State Office of Education during the third year of the approval cycle. Continuous collaborative involvement between the teacher education institutions and the Utah State Office of Education is maintained. Recommendations regarding approval are submitted to the Board.~~

R277-515-4. Criteria.

— A. The criteria and procedures used to evaluate the programs of teacher education institutions are the Standards for State Approval of Teacher Education developed by the National Association of State Directors of Teacher Education and Certification, and available from the USOE Certification Section and education departments at Utah institutions of higher education. These are supplemented by standards reflecting specific state needs and requirements. Criteria applicable to specific programs are listed with the certification standards which relate to that program.

— B. In order to receive approval, an institution must demonstrate that it has cooperated with local school districts in making special assistance and clinical experiences available for prospective and beginning teachers.

R277-515-5. Institution Evaluation.

— A. An evaluation may include an on-site visit to the institution by a professional review team. Team members include staff of the Utah State Office of Education, other teacher education institutions in the state, school districts, and professional associations.

— B. An evaluation emphasizes standards related to the following critical areas:

- (1) admission to teacher education programs;
- (2) general education;
- (3) subject matter preparation;
- (4) pedagogical preparation;
- (5) academic performance;
- (6) performance as a prospective teacher, which includes preparation to teach the academic curriculum taught in public schools and ability to utilize successful teaching methods;
- (7) faculty involved in the preparation of teachers;
- (8) program coherence.

— C. Adequate funding for teacher preparation programs must be given priority by the institution equal to that of the other professional schools and colleges. During the on-site approval visit, team leaders meet with administrative officials of the institution or its institutional council, or both, to receive an accounting of the allocation of funds for teacher education. The Board may refuse approval of a program that it determines is inadequately funded.

R277-515-6. Specific Program Evaluation.

— A. The various educator preparation programs within the institution are individually reviewed for approval by a subcommittee of the State Advisory Committee on Teacher Education. The subcommittee consists of a representative of the staff for the Board and at least two teachers or other professionals in the field covered by the proposed program. The subcommittee submits its findings and recommendations to the State Advisory Committee. The State Advisory Committee submits its recommendation to the Board.

— B. For each type of educator preparation program within the institution for which approval is requested, the institution shall provide the following:

- (1) justification or need for the program;
- (2) area of preparation, including whether the preparation is for a teaching or other specialist assignment or both;
- (3) restrictions or constraints associated with a certificate;
- (4) the extent to which other accrediting association standards are met by the program;
- (5) grade level of preparation; and
- (6) program competencies, including:

- (a) minimum performance levels;
- (b) credit hours required;
- (c) practicum and other non-classroom experiences; and
- (d) records of student evaluations.

R277-515-7. Changes in Approved Programs.

— Changes in an approved program made during the approval period are submitted to the State Office of Education. The State Office circulates the proposal to the appropriate subject matter specialists and outside consultants for recommendations. Interim approval may be extended until the next review cycle or special on-site visit.

KEY: accreditation, educational program evaluations, teacher certification

1987

Notice of Continuation October 18, 2002

Art X Sec 3

53A-6-101(1) and (2)

53A-1-401(3)]



Education, Administration
R277-516
 Library Media Certificates and
 Programs

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 28144

FILED: 08/15/2005, 11:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because library media is no longer a license area of concentration but an endorsement. The procedures and regulations specified in this rule are no longer in effect.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. There are no costs for changing the license requirement terminology from "area of concentration" to "endorsement."

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. There are no costs for changing the license requirement terminology from "area of concentration" to "endorsement."

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. There are no costs for changing the license requirement terminology from "area of concentration" to "endorsement."

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The process is the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-516. Library Media Certificates and Programs.~~

~~R277-516-1. Definitions.~~

- ~~— A. "Board" means the Utah State Board of Education.~~
- ~~— B. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed as an educator in the public schools.~~
- ~~— C. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competency under the Basic Certificate.~~

~~R277-516-2. Authority and Purpose.~~

- ~~— A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators and ancillary personnel who provide direct student services, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~
- ~~— B. The purpose of this rule is to specify:~~
 - ~~— (1) the requirements for obtaining certificates issued by the Board for employment in the public schools as a library media specialist; and~~
 - ~~— (2) the standards which must be met by a post secondary institution in order to receive Board approval of its program for library media personnel.~~

~~R277-516-3. Certification Requirements; Certificates Required for Employment.~~

- ~~— A. An applicant for the Basic Library Media Certificate must do all of the following:~~
 - ~~— (1) hold, or be eligible to hold, a Basic or Standard Early Childhood Education, Elementary, Middle Education, Secondary, or Special Education Certificate;~~
 - ~~— (2) have completed a Board approved program for the preparation of library media professionals;~~
 - ~~— (3) have demonstrated competence in computer understanding and use; and~~
 - ~~— (4) have been recommended by an institution whose program or preparation in library media has been approved by the Board.~~
- ~~— B. An applicant for the Standard Library Media Certificate must do all of the following:~~
 - ~~— (1) have completed at least two years of successful experience under a Basic Library Media Certificate or its equivalent; and~~
 - ~~— (2) be recommended by the employing school district with input from a teacher education institution.~~
- ~~— C. A Library Media Certificate is required for service at the kindergarten, elementary, or secondary level. Persons assigned to serve as a district or regional media coordinator, supervisor, or director must also hold an Administrative/Supervisory Certificate.~~

~~R277-516-4. Standards for the Approval of Programs for the Preparation of Library Media Professionals.~~

- ~~— The library media program of an institution may be approved by the Board if it requires students to demonstrate competence in all of the following:~~
 - ~~— A. Teaching library media skills to students.~~
 - ~~— B. The identification of staff needs in the use of media and technology for effective instruction.~~
 - ~~— C. Assisting teachers to integrate media concepts and materials into the curriculum.~~
 - ~~— D. Evaluating school library media services, collections, facilities, and personnel.~~
 - ~~— E. Using media to input and retrieve information from resources including bibliographic, electronic data bases, video, and community.~~
 - ~~— F. Developing a written selection policy which includes recognized sources and procedures for evaluating and selecting materials and equipment.~~
 - ~~— G. The production of media to meet learning objectives.~~
 - ~~— H. Organizing, classifying, and cataloging materials.~~
 - ~~— I. The knowledge of children's and young adult literature and its relationship to a student's interest and reading ability.~~
 - ~~— J. Administration, leadership, supervision, and management of a school library media center.~~

~~KEY: professional competency, school personnel, accreditation, libraries~~

~~1987~~

~~Notice of Continuation January 14, 2003~~

~~Art X Sec 3~~

~~53A-1-402(1)(a)~~

~~53A-1-401(3)]~~



Education, Administration
R277-602
 Special Needs Scholarships - Funding
 and Procedures

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 28138
 FILED: 08/15/2005, 11:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to outline responsibilities for parents/students, public schools, school districts or charter schools, and eligible private schools that accept scholarships from special needs students and the State Board of Education in providing choice for parents of special needs students who choose to have their children served in private schools, and in providing accountability for the citizenry in the administration and distribution of the scholarship funds.

SUMMARY OF THE RULE OR CHANGE: This new rule provides for parent/guardian responsibilities, school district or charter school responsibilities, State Board of Education responsibilities, responsibility of private schools that receive special needs scholarships, and for retroactive scholarship payments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-707 and Subsection 53A-1a-706(5)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. The Legislature provided funding for the scholarship and costs to administer the scholarship in H.B. 249 and S.B. 3 from the 2005 Legislative General Session. The amount of funding is adequate to cover eligible applicants. (DAR NOTE: H.B. 249 (2005) is found at UT L 2005 Ch 35, and was effective 05/02/2005.) S.B. 3 (2005) is found at UT L 2005 Ch 309, and was effective 03/22/2005.)
- ❖ **LOCAL GOVERNMENTS:** There will be costs to school districts and charter schools for additional personnel to participate on assessment teams and to assist with cross-checking special needs scholarship students' enrollment information as requested by the State Board of Education. Any costs associated with those assignments will need to be absorbed by the school districts or charter schools because no funding was provided for this purpose. Costs of participation by school district and charter school personnel in assessment teams is too variable and speculative to estimate.
- ❖ **OTHER PERSONS:** There should not be costs for parents/guardians to apply for the scholarship on behalf of their students. Private schools may have additional personnel costs for preparation and submission of scholarship applications, and under some circumstances, for the evaluation, instruction, and assessment of students with disabilities, and for compliance with health and safety laws.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should not be costs for parents/guardians to apply for the scholarship on behalf of their students. Private schools may have additional personnel costs for preparation and submission of scholarship applications, and under some circumstances, for the evaluation, instruction, and assessment of students with disabilities, and for compliance with health and safety laws. There could be costs for some private schools to comply with health and safety laws and codes. Costs would be speculative.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-602. Special Needs Scholarships - Funding and Procedures.

R277-602-1. Definitions.

A. "Annual assessment" for purposes of this rule means a formal testing procedure carried out under prescribed and uniform conditions that measures students' academic progress, consistent with Section 53A-1a-705(1)(f).

B. "Assessment team" means the individuals designated under Section 53A-1a-703(1).

C. "Audit of a private school" for purposes of this rule means a financial audit provided by an independent certified public accountant, as provided under Section 53A-1a-705(1)(b).

D. "Board" means the Utah State Board of Education.

E. "Days" means school days unless specifically designated otherwise in this rule.

F. "Disclosure to parents" for purposes of this rule means the express acknowledgments and acceptance required under Section 53A-1a-704(5) as part of parent application available through schools districts.

G. "Eligible student" for purposes of this rule means:

- (1) the student's parent resides in Utah;
- (2) the student has a disability as designated in 53A-1a-704(2)(b); and
- (3) the student is school age.
- (4) Eligible student also means that the student was enrolled in a public school in the school year prior to the school year in which the student will be enrolled in a private school, has an IEP and has obtained acceptance for admission to an eligible private school; and
- (5) The requirement to be enrolled in a public school in the year prior and have an IEP does not apply if:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that specializes in serving students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty that the student has a disability and would qualify for special education services if enrolled in a public school and the appropriate level of special education services which should be provided to the student at the specialized private school.

H. "Enrollment" for purposes of this rule means that the student has completed the school enrollment process, the school maintains required student enrollment information and documentation of age eligibility, the student is scheduled to receive services at the school, the student attends regularly, and has been accepted consistent with R277-419 and the student's IEP.

I. "Fiscal soundness of a private school" for purposes of this rule means that the school has provided to the USOE the information required under Section 53A-1a-705(1)(b) that includes:

- (1) a copy of the audit completed in the school's initial year that the school accepts scholarship audit and opinion letter consistent with Section 53A-1a-705(1)(b) as defined by AICPA standards;
- (2) a letter from a certified public accountant stating that the private school:

(a) is insured consistent with R277-602-1J; and

(b) has sufficient funds to maintain operations for the full school year.

J. "Individual education program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Board Special Education Rules and Part B of the Individuals with Disabilities Education Act (IDEA).

K. "Insured" for purposes of this rule means that the school has provided a certificate of insurance for accident and liability insurance in the amount of \$1 million, \$2 million aggregate, and proof of property and auto coverage. Property coverage should include coverage for employees working with funds of the school. The insurance company providing coverage to the school should have a Best rating of at least an A-, and be at least a Category VI company in size.

L. "Northwest accredited special purpose school" means a school accredited by the Northwest Association of Accredited Schools that is public, nonpublic, proprietary or nonprofit. The school has been designated by Northwest as a school that meets the special educational needs of students under unique circumstances. Generally, such schools offer a limited array of educational services and may not adhere to the state's common school compulsory attendance laws or graduation requirements.

M. "Private school that specializes in serving students with disabilities" means the school:

- (1) has a student population of at least 80 percent students with identified disabilities under Section 53A-1a-704(2); or

(2) is a Northwest accredited special purpose school that serves students with disabilities; or

(3)(a) employs or contracts with special education teachers who have a Utah educator license with special education area of concentration. The teachers are responsible for the evaluation, programming, instruction, and assessment of students with disabilities; and

(b) employs or contracts with licensed related service providers who are responsible for evaluation, programming, instruction, and assessment of students with disabilities; and

(c) the special education teachers and related service providers deliver services within the caseload guidelines in the Utah State Board of Education approved Special Education Rules.

N. "USOE" means the Utah State Office of Education.

O. "Warrant" means payment by check to a private school.

R277-602-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, Section 53A-1a-706(5)(b) which provides for Board rules to establish timelines for payments to private schools, Section 53A-3-410(6)(b)(i)(c) which provides for criminal background checks for employees and volunteers, Section 53A-1a-707 which provides for Board rules about eligibility of students for scholarships and the application process for students to participate in the scholarship program, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to outline responsibilities for parents/students, public schools, school districts or charter schools, and eligible private schools that accept scholarships from special needs students and the State Board of Education in providing choice for parents of special needs students who choose to have their children served in private schools and in providing accountability for the citizenry in the administration and distribution of the scholarship funds.

R277-602-3. Parent/Guardian Responsibilities.

A. If the student is enrolled in a public school or was enrolled in a public school in the year previous to the year in which the scholarship is sought, the parent/guardian shall submit an application, available from the USOE or online at www.usoe.org, to the school district or charter school within which the parent/guardian resides.

(1) The parent shall complete all required information on the application.

(2) Any intentional falsification, misinformation, or incomplete information provided on the application may result in the cancellation of the scholarship to the student and non-payment to the private school.

B. If the student was not enrolled in a public school in the year previous to the year in which the scholarship is sought, but was enrolled in a private school that specializes in serving students with disabilities, the parent/guardian shall submit an application to the school district in which the private school is geographical located (school district responsible for child find under IDEA, Sec. 612(a)(3)). The parent/guardian shall provide:

- (1) documentation of student's enrollment in an eligible private school as defined under Section 53A-1a-705;

(2) documentation following an assessment team's evaluation that a student would qualify for special education services and the level of services for which the student would be eligible if enrolled in a public school.

C. Upon completion of the application, parents of students eligible under R277-602-3A or B above shall provide by July 1, or later as allowed by the Board, prior to the year in which admission is sought, the application form together with the following documentation to the student's enrollment district that received the scholarship application:

(1) documentation that the parent/guardian is a resident of the state of Utah;

(2) documentation that the student is at least five years of age, consistent with Section 53A-3-402(6);

(3) documentation that the student is not more than 21 years of age and has not graduated from high school consistent with Section 53A-15-301(1)(a);

(4) documentation that the student has satisfied R277-602-3A or B above;

(5) documentation that the student has official acceptance at an eligible private school, as defined under Section 53A-1a-705;

(6) parent signature on acknowledgments and refusal to consent to services on the application form consistent with Section 53A-1a-704;

(7) notification in writing in the second and third year to indicate continued enrollment.

D. A special needs scholarship shall be effective for three years subject to renewal under Section 53A-1a-704(6).

E. The parent shall, consistent with Section 53A-1a-706(8), endorse the warrant received by the private school from the USOE no more than 15 school days after the private school's receipt of the warrant.

F. The parent shall notify the Board in writing within five days if:

(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student; or

(2) the student misses more than 10 consecutive days at which point the Board may modify the payment to the private school consistent with R277-419-1J.

G. The parent shall cooperate and respond within 10 days to an enrollment cross-checking request from the Board.

R277-602-4. School District or Charter School Responsibilities.

A. The school district or charter school that receives the student's scholarship application consistent with Section 53A-1a-704(4) shall forward applications to the Board no more than 10 days following receipt of the application.

B. The school district or charter school that received the student's scholarship application shall:

(1) receive applications from students/parents;

(2) verify enrollment of the student seeking a scholarship in previous school year within a reasonable time following contact by the Board;

(3) verify the existence of the student's IEP and level of service to the USOE within a reasonable time;

(4) provide personnel to participate on an assessment team to determine:

(a) if a student who was previously enrolled in a private school that specializes in serving students with disabilities would qualify for special education services if enrolled in a public school and the

appropriate level of special education services which should be provided to the child for purposes of determining the scholarship amount consistent with Section 53A-1a-706(2);

(b) if a student previously receiving a special needs scholarship is entitled to receive the scholarship during the subsequent eligibility period.

C. Special needs scholarship students shall not be enrolled in public or charter schools for dual enrollment or extracurricular activities, consistent with the parents'/guardians' assumption of full responsibility for students' services under Section 53A-1a-704(5).

D. School districts or charter schools shall cooperate with the Board in cross-checking special needs scholarship student enrollment information, as requested by the Board.

R277-602-5. State Board of Education Responsibilities.

A. The Board shall provide applications annually, containing acknowledgments required under Section 53A-1a-704(5), for parents seeking a special needs scholarship online, at the Board offices, at school district or charter school offices, and at charter schools no later than April 1 prior to the school year in which admission is sought (applications for the 2005-06 school year shall be available no later than June 15).

B. The Board shall provide a determination that a private school meets the eligibility requirements of Section 53A-1a-705 as soon as possible but no more than 30 days after the private school submits an application and completed documentation of eligibility. The Board may:

(1) provide reasonable timelines within the application for satisfaction of private school requirements;

(2) issue letters of warning, require the school to take corrective action within a time frame set by the Board, suspend the school from the program consistent with Section 53A-1a-708, or impose such other penalties as the Board determines appropriate under the circumstances.

(3) establish appropriate consequences or penalties for private schools that:

(a) fail to provide affidavits under Section 53A-1a-708;

(b) fail to administer assessments, fail to report assessments to parents or fail to report assessments to assessment team under Section 53a-1a-705(1)(f);

(c) fail to employ teachers with credentials required under Section 53A-1a-705(g);

(d) fail to provide to parents relevant credentials of teachers under Section 53A-1a-705(h);

(e) fail to require completed criminal background checks under Section 53A-3-410(2) and take appropriate action consistent with information received.

(4) initiate complaints and hold administrative hearings, as appropriate, and consistent with R277-602.

C. The Board shall make a list of eligible private schools updated annually and available no later than May 30 (June 25 for 2005-2006 school year).

D. Information about approved scholarships and availability and level of funding shall be provided to scholarship applicant parents/guardians no later than July 30 of each year.

E. The Board shall mail scholarships directly to private schools as soon as reasonably possible consistent with Section 53A-1a-706(8).

F. For the 2005-06 school year, payments shall begin September 1 to private schools.

G. Beginning with the 2006-07 school year, the Board may begin scholarship payments to eligible private schools no earlier than July 1 but before payment dates established by Section 53A-1a-706(5)(a) if the parent/guardian negotiates a payment date with the USOE, provides reasonable advance notice to the USOE and assumes responsibility for transmission of the payment from the USOE to the private school.

H. If an annual legislative appropriation is inadequate to cover all scholarship applicants and documented levels of service, the Board shall establish by rule a lottery system for determining the scholarship recipients, with preference provided for under Section 53A-1a-1(1).

I. The Board shall verify and cross-check with school districts or charter school special needs scholarship student enrollment information consistent with Section 53A-1a-706(7).

R277-602-6. Responsibilities of Private Schools that Receive Special Needs Scholarships.

A. Private schools shall submit applications and by May 1 (June 15 by 2005-06 school year) and satisfy eligibility requirements within 10 days preceding the school year of eligibility to receive special needs scholarships consistent with Section 53A-1a-705.

B. Applications and appropriate documentation from private schools for eligibility to receive special needs scholarship students shall be provided to the USOE consistent with Section 53A-1a-705(3).

C. Private schools shall satisfy criminal background check requirements for employees and volunteers consistent with Section 53A-3-410.

D. Private schools that seek to enroll special needs scholarship students shall, in concert with the parent seeking a special needs scholarship for a student, initiate the assessment team meetings required under Sections 53A-1a-704(3) and 53A-1a-704(6).

(1) Meetings shall be scheduled at times and locations mutually acceptable to private schools, applicant parents and participating public school personnel.

(2) Designated private school and public school personnel shall maintain documentation of the meetings and the decisions made for the students.

(3) Documentation regarding required assessment team meetings, including documentation of meetings for students denied scholarships or services and students admitted into private schools and their levels of service, shall be maintained confidentially by the private and public schools, except the information shall be provided for purposes of audit or verification of services upon request by the USOE.

E. Private schools receiving scholarship payments under this rule shall provide complete student records in a timely manner to other private schools or public schools requesting student records if parents have transferred students under Section 53A-1a-704(7).

F. Private schools shall notify the Board within five days if:

(1) the student does not continue in enrollment in an eligible private school for any reason including parent/student choice, suspension or expulsion of the student; or

(2) the student misses more than 10 consecutive days of school.

G. Private schools shall satisfy health and safety laws and codes under Section 53A-1a-705(1)(d) including:

(1) the adoption of emergency preparedness response plans that include training for school personnel and parent notification for fire drills, natural disasters, and school safety emergencies and

(2) compliance with R392-200, Design, Construction, Operation, Sanitation, and Safety of Schools.

R277-602-7. Retroactive Scholarship Payments.

A. Retroactive scholarship payments shall be made to parents consistent with eligibility criteria for private schools, private schools specializing in serving students with disabilities, eligible students as outlined in R277-602 for the 2004-2005 school year as provided under Section 53A-1a-706(9)(a).

B. Retroactive scholarship payments shall be made to parents submitting required documentation no later than September 1, 2005.

KEY: special needs students, scholarships 2005

Art X Sec 3

53A-1a-706(5)(b)

53A-3-410(6)(i)(c)

53A-1a-707

53A-1-401(3)

▼ ————— ▼

Environmental Quality, Air Quality R307-214-2 Part 63 Sources

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28130

FILED: 08/05/2005, 15:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: By adopting and receiving delegation for these standards for Hazardous Air Pollutants (HAPs), the State will have primacy over administration of these standards on Utah sources. This will be consistent with the historical approach taken by the Department of Environmental Quality, and will simplify procedures required of sources.

SUMMARY OF THE RULE OR CHANGE: Two new federal standards for HAPs are proposed for incorporation by reference into Section R307-214-2. These two Maximum Achievable Control Technology (MACT) standards may apply to current or future Utah sources. The Clean Air Act of 1990 required EPA to issue standards for HAPs; these standards are commonly called MACTs. State operation of the MACTs program is a federally required component of the "Operating Permits" program under Title V of the Clean Air Act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products; and 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs to the state budget for implementing these MACTs, as all sources are required to hold Operating Permits, and their costs are built into the fees paid by sources of HAPs under the Operating Permit Program.

❖ LOCAL GOVERNMENTS: The only new MACT that may affect local governments is 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters. Nationwide, it is anticipated that this rule will reduce HAPs emissions by 58,500 tons per year. It is also anticipated that this rule will reduce sulfur dioxide emissions by 113,000 tons per year, PM10 emissions by 562,000 tons per year, and PM2.5 emissions by 159,000 tons per year. Nationwide, the capital costs for sources are estimated to be \$1,790,000, and annual costs are estimated to be \$860,000,000 per year. Prices for output in the 40 affected industries are anticipated to increase by approximately 0.04%. Productivity is expected to decrease by less than .03%. No adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable.

❖ OTHER PERSONS: 1) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants: for Plywood and Composite Wood Products. There are 0-2 sources in Utah known to be subject to this rule. Nationwide, it is anticipated that this rule will reduce HAPs emissions between 6,600 and 11,000 tons per year. It is also anticipated that this rule will reduce carbon monoxide emissions between 8,400 and 10,000 tons per year, PM10 emissions between 5,900 and 12,000 tons per year, and volatile organic compounds emissions between 14,000 and 27,000 tons per year. Nationwide, the capital costs for sources are estimated to be between \$240,000,000 and \$471,000,000, and annual costs are estimated to be between \$74,000,000 per year and \$140,000,000 per year. Prices for finished products are anticipated to increase by approximately 1.3%. Productivity is expected to decrease by less than .4%. No adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable. 2) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters. There are approximately 8-12 sources in Utah known to be subject to this rule. Nationwide, it is anticipated that this rule will reduce HAPs emissions by 58,500 tons per year. It is also anticipated that this rule will reduce sulfur dioxide emissions by 113,000 tons per year, PM10 emissions by 562,000 tons per year, and PM2.5 emissions by 159,000 tons per year. Nationwide, the capital costs for sources are estimated to be \$1,790,000, and annual costs are estimated to be \$860,000,000 per year. Prices for output in the 40 affected industries are anticipated to increase by approximately 0.04%. Productivity is expected to decrease by less than .03%. No adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: 1) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants: for Plywood and Composite Wood Products. There are 0-2 sources in Utah known to be subject to this rule.

Nationwide, it is anticipated that this rule will reduce HAPs emissions between 6,600 and 11,000 tons per year. It is also anticipated that this rule will reduce carbon monoxide emissions between 8,400 and 10,000 tons per year, PM10 emissions between 5,900 and 12,000 tons per year, and volatile organic compounds emissions between 14,000 and 27,000 tons per year. Nationwide, the capital costs for sources are estimated to be between \$240,000,000 and \$471,000,000, and annual costs are estimated to be between \$74,000,000 per year and \$140,000,000 per year. Prices for finished products are anticipated to increase by approximately 1.3%. Productivity is expected to decrease by less than .4%. No adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable. 2) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters. There are approximately 8-12 sources in Utah known to be subject to this rule. Nationwide, it is anticipated that this rule will reduce HAPs emissions by 58,500 tons per year. It is also anticipated that this rule will reduce sulfur dioxide emissions by 113,000 tons per year, PM10 emissions by 562,000 tons per year, and PM2.5 emissions by 159,000 tons per year. Nationwide, the capital costs for sources are estimated to be \$1,790,000, and annual costs are estimated to be \$860,000,000 per year. Prices for output in the 40 affected industries are anticipated to increase by approximately 0.04%. Productivity is expected to decrease by less than .03%. No adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs for Utah businesses to implement these requirements are very small, and no adverse economic impact is expected to occur as a result of this rule, because these provisions are already federally enforceable. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 10/03/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/20/2005 at 2:00 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-214. National Emission Standards for Hazardous Air Pollutants.

R307-214-2. Part 63 Sources.

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, [2003]2005, or later for those whose subsequent publication citation is included below, are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).
- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.
- (8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.
- (9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- (11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.
- (12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- (13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- (14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.
- (15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- (16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.

(17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.

(18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.

(19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.

(20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.

(21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.

(22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.

(23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.

(24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.

(25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfitite, and Stand-Alone Semicheical Pulp Mills.

(26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.

(27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.

(28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.

(29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.

(30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).

(31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).

(32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).

(33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.

(34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).

(35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

(36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.

(37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

(38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.

(39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

(40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.

(41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.

(42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.

(43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.

(44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

(45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.

(46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.

(47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).

(48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.

(49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.

(50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.

(51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.

(52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.

(53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.

(54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.

(55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.

(56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products, published on July 30, 2004 at 69 FR 45943.

~~(56)(57)~~ 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline), ~~published on February 3, 2004 at 69 FR 5038.~~

~~(57)(58)~~ 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing, ~~published on November 10, 2003 at 68 FR 63852.~~

~~(58)(59)~~ 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.

~~(59)(60)~~ 40 CFR Part 63, Subpart HHHH - National Emission Standards for Wet-Formed Fiberglass Mat Production.

~~(60)(61)~~ 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks, ~~published on April 26, 2004 at 69 FR 22602.~~

~~(61)(62)~~ 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.

~~(62)(63)~~ 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans, ~~published on November 13, 2003 at 68 FR 64432.~~

~~(63)(64)~~ 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products, ~~published on January 2, 2004 at 69 FR 130.~~

~~(64)(65)~~ 40 CFR Part 63, Subpart NNNN - National Emission Standards for Large Appliances Surface Coating Operations.

~~(65)(66)~~ 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.

~~(66)(67)~~ 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products, ~~published on April 19, 2004 at 69 FR 20968.~~

~~(67)(68)~~ 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.

~~(68)(69)~~ 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.

~~(69)(70)~~ 40 CFR Part 63, Subpart SSSS - National Emission Standards for Metal Coil Surface Coating Operations.

~~(70)(71)~~ 40 CFR Part 63, Subpart TTTT - National Emission Standards for Leather Tanning and Finishing Operations.

~~(71)(72)~~ 40 CFR Part 63, Subpart UUUU - National Emission Standards for Cellulose Product Manufacturing.

~~(72)(73)~~ 40 CFR Part 63, Subpart VVVV - National Emission Standards for Boat Manufacturing.

~~(73)(74)~~ 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.

~~(74)(75)~~ 40 CFR Part 63, Subpart XXXX - National Emission Standards for Tire Manufacturing.

~~(75)(76)~~ 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines, ~~published on March 5, 2004 at 69 FR 10512.~~

~~(76)(77)~~ 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, ~~published on June 15, 2004 at 69 FR 33474.~~

~~(77)(78)~~ 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants, ~~published on January 5, 2004 at 69 FR 394.~~

~~(78)(79)~~ 40 CFR Part 63, Subpart BBBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.

~~(79)(80)~~ 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.

(81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters, published on September 13, 2004 at 69 FR 55217.

~~(80)(82)~~ 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries, ~~published on April 22, 2004 at 69 FR 21906.~~

~~(81)(83)~~ 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.

~~(82)(84)~~ 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation, ~~published on October 8, 2003 at 68 FR 58172.~~

~~(83)(85)~~ 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing, ~~published on December 11, 2003 at 68 FR 69164.~~

~~[(84)](86)~~ 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants, ~~published on December 19, 2003 at 68 FR 70904.~~

~~[(85)](87)~~ 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

~~[(86)](88)~~ 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

~~[(87)](89)~~ 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

~~[(88)](90)~~ 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

~~[(89)](91)~~ 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

~~[(90)](92)~~ 40 CFR Part 63, Subpart PPPPP, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

~~[(91)](93)~~ 40 CFR Part 63, Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

~~[(92)](94)~~ 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing, ~~published on October 30, 2003 at 68 FR 61868.~~

~~[(93)](95)~~ 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

~~[(94)](96)~~ 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining, ~~published on October 10, 2003 at 68 FR 58615.~~

KEY: air pollution, hazardous air pollutant, MACT
~~October 7, 2004~~**2005**
Notice of Continuation February 9, 2004
19-2-104(1)(a)

▼ ————— ▼

Environmental Quality, Air Quality

R307-840

Lead-Based Paint Accreditation, Certification and Work Practice Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28131

FILED: 08/05/2005, 16:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rulemaking is to incorporate by reference an addition and a modification to 40 CFR Part 745 into Rule R307-840. The rule addition to be incorporated allows the Division of Air Quality Lead-Based Paint Program primacy over administration of the federal Lead-Based Paint Pre-

Renovation Education Rule in Utah. The modification provides additional procedural guidance to lead-based paint abatement contractors and lead-based paint training providers on notifying the Division of regulated lead-based paint activities performed in Utah.

SUMMARY OF THE RULE OR CHANGE: The Air Quality Board is proposing to incorporate by reference an addition and a modification to 40 CFR Part 745 into Rule R307-840. The rule addition to be incorporated is 40 CFR Part 745, Subpart E, "Lead; Requirements for Hazard Education Before Renovation of Target Housing" which was originally published in the Federal Register on June 1, 1998 (63 FR 29907). This provision is already federally enforceable; the effect of this rule change is to allow enforcement of these standards by the state of Utah. The rule modification proposed for adoption is 40 CFR Part 745, Subpart L, "Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training" which was originally published in the Federal Register on April 8, 2004 (68 FR 18489). This modification provides additional procedural guidance to lead-based paint abatement contractors and lead-based paint training providers on notifying the Division of regulated lead-based paint activities performed in Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 40 CFR Part 745, Subpart E, "Lead; Requirements for Hazard Education Before Renovation of Target Housing;" and 40 CFR Part 745, Subpart L, "Lead; Notification Requirements for Lead-Based Paint Abatement Activities and Training"

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division of Air Quality Lead-Based Paint Program will receive additional grant funding from EPA that will cover 100% of the cost of administering the Lead-Based Paint Pre-Renovation Education Rule outlined in 40 CFR Part 745, Subpart E. The proposed modification related to 40 CFR Part 745, Subpart L is a clarification of established procedures. Because no additional requirements are being proposed, there are no anticipated costs to the state budget.

❖ LOCAL GOVERNMENTS: 40 CFR Part 745, Subpart E was originally published in the Federal Register on June 1, 1998 (63 FR 29907). This provision is already federally enforceable; the effect of this rule change is to allow enforcement of these standards by the state of Utah. The proposed modification to 40 CFR Part 745, Subpart L is a clarification of established procedures, and no additional requirements are proposed. Therefore, there are no anticipated costs to local governments.

❖ OTHER PERSONS: 40 CFR Part 745, Subpart E was originally published in the Federal Register on June 1, 1998 (63 FR 29907). This provision is already federally enforceable; the effect of this rule change is to allow enforcement of these standards by the state of Utah. The proposed modification to 40 CFR Part 745, Subpart L is a clarification of established procedures, and no additional requirements are proposed. Therefore, there are no anticipated costs to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: 40 CFR Part 745, Subpart E was originally published in the Federal Register on June 1, 1998 (63 FR 29907). This provision is already federally enforceable; the effect of this rule change is to allow enforcement of these standards by the state of Utah. The proposed modification to 40 CFR Part 745, Subpart L is a clarification of established procedures, and no additional requirements are proposed. Therefore, there are no anticipated costs to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because businesses are already subject to regulations in 40 CFR Part 745, Subpart E, which is being proposed for incorporation by reference in Rule R307-840, no additional fiscal impact is anticipated. In addition, the proposed modification to Rule R307-840 helps clarify existing procedures. Therefore, no anticipated fiscal impacts are expected for businesses. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@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 10/03/2005

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/21/2005 at 2:00 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/03/2005

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.

R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.

R307-840-2. Definitions.

(1) Definitions found in 40 CFR 745.63, 40 CFR 745.83, and 40 CFR 745.223, in effect as of July 1, 2005~~[April 10, 2003]~~, are hereby adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below.

(2) Substitutions.~~[Substitute "Executive Secretary" for all references to "EPA," except in the definition of "Recognized laboratory" found in 40 CFR 745.223.]~~

(a) Substitute "the Executive Secretary" for all references to "EPA" except in the definition of "Pamphlet" found in 40 CFR

745.83 and in the definition of "Recognized laboratory" found in 40 CFR 745.223.

(b) Substitute "the Executive Secretary" for all references to "Administrator".

(3) Modifications.~~[-Delete the definition of "Lead-based paint hazard" found in 40 CFR 745.223.]~~

(a) Delete the definition of "Administrator" found in 40 CFR 745.83.

(b) Modify the definition of "Pamphlet" found in Sec. 745.83 by deleting ", or any State or Tribal pamphlet approved by EPA pursuant to 40 CFR 745.326 that is developed for the same purpose".

(c) Delete the definition of "Lead-based paint hazard" found in 40 CFR 745.223.

(d) Modify the definition of "Business day" found in Sec. 745.223 by including "and State of Utah" before "holidays".

R307-840-3. Accreditation, Certification and Work Standards: Target Housing and Child-Occupied Facilities.

(1) The following requirements, in effect as of ~~[April 10, 2003]~~ July 1, 2005, are adopted and incorporated by reference, with the substitutions found in (2) below and the modifications found in (3) below:

(a) 40 CFR 745.61, 745.65, 745.80, 745.81, 745.82, 745.85, 745.86, 745.88, 745.225(a) through (g) and (i), 745.226 (a) through (h), 745.227, and 745.233.

(2) Substitutions.

(a) Substitute "the Executive Secretary" for all references to "EPA" with the following exceptions:

(i) Sec. 745.65(d).

(ii) Sec. 745.86(b)(1).

~~[(iii)](iii)~~ Sec. 745.225(b)(1)(iii), Sec. 745.225(b)(1)(iv), Sec. 745.225(c)(2)(ii), Sec. 745.225(c)(10), Sec. 745.225(e)(5)(iii), and Sec. 745.225(e)(5)(iv).

~~[(iii)](iv)~~ The last reference to EPA in Sec. 745.226[-](a)(1)(ii) and the second reference to EPA in Sec. 745.226(d)(1).

~~[(iv)](v)~~ The first three references to EPA in Sec. 745.227(a)(3), and the reference to EPA in Sec. 745.227(a)(4),~~[-the second reference to EPA in Sec. 745.227(e)(4),]~~ Sec. 745.227(e)(4)(vi)(D), Sec. 745.227(e)(4)(vi)(I), and Sec. 745.227(f)(2).

~~[(v)](b)~~ Substitute "the Executive Secretary or the Executive Secretary's authorized representative" for references to "EPA" in Sec. 745.225(c)(12), Sec. 745.225(f)(4), and Sec. 745.225(i)(1).~~[-]~~

(b) Substitute "the current Department of Environmental Quality Fee Schedule" for all references to "Sec. 745.238."~~[-]~~

(c) Substitute "the Executive Secretary" for all references to "Administrator".

(d) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or a State or Tribal certification program authorized pursuant to Sec. 745.324" in Sec. 745.82(b)(3).

(e) Substitute "R307-840" for "either Federal regulations at Sec. 745.226 or an EPA-authorized State or Tribal certification program" in Sec. 745.86(b)(1).

(f) Substitute "Sec. 745.82(b)(3)" for "Sec. 745.82(b)(iv)" in 40 CFR 745.86(b)(1).

(g) Substitute sample certification language found in Sec. 745.88(b)(2)(ii) with that found in Sec. 745.88(b)(2)(i).

(h) Substitute sample certification language found in Sec. 745.88(b)(2)(i) with that found in Sec. 745.88(b)(2)(ii).

(i) Substitute "the current Department of Environmental Quality Fee Schedule" for references to "Sec. 745.238" in Sec. 745.225(b)(4), Sec. 745.225(f)(3)(v), Sec. 745.226(a)(6), Sec. 745.226(e)(3), Sec. 745.226(f)(6), and Sec. 745.226(f)(7).

(j) Substitute "Utah Division of Air Quality electronic notification system" for "Agency's central data exchange (CDX)" in Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec. 745.227(e)(4)(vii).

(k) Substitute "Notification Form" for "Schedule" in Sec. 745.225(c)(13)(vi).

(l) Substitute "Utah Division of Air Quality Lead-Based Paint Program web site" for "NLIC at 1-800-424-LEAD(5323), or on the Internet at <http://www.epa.gov/lead>" in Sec. 745.225(c)(13)(vi), Sec. 745.225(c)(14)(iii), and Sec. 745.227(e)(4)(vii).

(m) Substitute "Verification Form" for "Course Follow-up" in Sec. 745.225(c)(14)(iii).

(n) Substitute "Utah lead-based paint firm" for "EPA" in Sec. 745.227(e)(4)(vi)(D).

(o) Substitute "Utah lead-based paint individual" for "EPA" in Sec. 745.227(e)(4)(vi)(I).

(p) Substitute "Lead-Based Paint Abatement Project Notification" for "Notification of Lead-Based Paint Abatement Activities" in Sec. 745.227(e)(4)(vii).

(q) Substitute "Sec 745.6[3]5(b)" for "Sec 745.227(b)" in 40 CFR 745.227(h)(2)(i).

(3) Modifications.

(a) Change the date in Sec. 745.81 to October 1, 2005.

(b) Change the date in Sec. 745.226(a)(5), Sec. 745.226(d)(2), Sec. 745.226(f)(1), and Sec. 745.227(a)(1) to August 30, 1999.

(c) Modify Sec. 745.225(b)(1)(iii) by deleting ~~the statement,~~ "or training materials approved by a State or Indian Tribe that has been authorized by EPA under subpart Q of this part,".

(d) Modify Sec. 745.225(b)(1)(iv) by deleting ~~the statement,~~ "or training materials approved by an authorized State or Indian Tribe[-]".

(e) Modify Sec. 745.225(c)(2)(ii) by including ~~the statement,~~ "Executive Secretary-accredited," before ~~the statement~~ "EPA-accredited[-]".

(f) Modify Sec. 745.225(c)(13)(v)(B) and Sec. 745.225(c)(14)(ii)(A) by deleting "EPA accreditation number."

(g) Modify Sec. 745.225(c)(14)(ii)(F) to include "Utah Division of Air Quality Lead-Based Paint Program training verification statement".

(h) Modify Sec. 745.225(e)(5)(iii) by deleting ~~the statement,~~ "or training materials approved by a State or Indian Tribe that has been authorized by EPA under ~~subsection~~ Sec. 745.324 to develop its refresher training course materials,".

(i) Modify Sec. 745.225 (e)(5)(iv) by deleting ~~the statement,~~ "or training materials approved by an authorized State or Indian Tribe[-]".

(j) Modify Sec. 745.226 (a)(1)(ii) by including ~~the statement,~~ "EPA or" after the word "from[-]".

(k) Modify Sec. 745.227 (a)(3) by deleting the statement, "Regulations, guidance, methods, or protocols issued by States and Indian Tribes that have been authorized by EPA;".

(l) Modify Sec. 745.226(f)(7) by deleting ~~the statement~~ "every 3 years[-]".

(m) Modify Sec. 745.227 (a)(3) by deleting "Regulations, guidance, methods, or protocols issued by States and Indian Tribes that have been authorized by EPA;".

KEY: air pollution, paint, lead-based paint

[August 6, 2003]2005

Notice of Continuation May 5, 2003

19-2-104(1)(i)

▼ ————— ▼

Health, Epidemiology and Laboratory Services, Epidemiology **R386-702** Communicable Disease Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28152

FILED: 08/15/2005, 17:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is proposed that "Kawasaki syndrome" be removed from the list of reportable conditions in the Communicable Disease Rule, and that "Influenza, laboratory confirmed" be replaced to require reporting of hospitalized influenza cases only. The reason behind this proposal is that Kawasaki syndrome is a syndrome rather than a disease, and identification and reporting of this syndrome is difficult and poses a significant burden for medical providers. Further, the public health role in managing cases of this syndrome is not clear. This syndrome is not a nationally-notifiable disease. Decreasing the reporting burden for influenza from requiring report of all laboratory-confirmed cases to hospitalized cases only will significantly reduce the amount of cases that must be reported. Characterization of the influenza season is supplemented by other surveillance methods so this change will not impact the ability of the Department of Health to monitor and characterize trends over time. Influenza is not a nationally-notifiable disease. Requirements for the treatment and release from supervision for Typhoid patients are clarified to meet current practice standards.

SUMMARY OF THE RULE OR CHANGE: The changes in the Communicable Disease Rule include removal of one reportable condition (Kawasaki syndrome) and modification of another (influenza, laboratory-confirmed) that will result in decreased reporting requirements for health care providers and laboratories. Requirements for the treatment and release from supervision for Typhoid patients are clarified to meet current practice standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-30 and 26-6-3, and Title 26, Chapter 23b

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be a small, unquantifiable savings in resources used to track and monitor these diseases.

❖ LOCAL GOVERNMENTS: There will be a small, unquantifiable savings to local health departments in resources used to track and monitor these diseases.

❖ OTHER PERSONS: There will be some savings for medical providers, including laboratories and private clinician offices due to decreased reporting requirements; however, those savings are small and difficult to quantify.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs since the change should result in savings for most affected entities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The minor changes in disease reporting requirements should not have a significant fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
EPIDEMIOLOGY
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:

Robert Rolfs at the above address, by phone at 801-538-6386, by FAX at 801-538-9923, or by Internet E-mail at rolfs@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: David N. Sundwall, Executive Director

R386. Health, Community Health Services, Epidemiology.

R386-702. Communicable Disease Rule.

R386-702-3. Reportable Diseases, Emergency Illnesses, and Health Conditions.

(1) The Utah Department of Health declares the following conditions to be of concern to the public health and reportable as required or authorized by Section 26-6-6 and Title 26, Chapter 23b of the Utah Health Code.

- (a) Acquired Immunodeficiency Syndrome
- (b) Adverse event resulting after smallpox vaccination
- (c) Amebiasis
- (d) Anthrax
- (e) Arbovirus infection
- (f) Botulism
- (g) Brucellosis
- (h) Campylobacteriosis
- (i) Chancroid
- (j) Chickenpox
- (k) Chlamydia trachomatis infection
- (l) Cholera
- (m) Coccidioidomycosis

- (n) Colorado tick fever
- (o) Creutzfeldt-Jakob disease and other transmissible human spongiform encephalopathies
- (p) Cryptosporidiosis
- (q) Cyclospora infection
- (r) Dengue fever
- (s) Diphtheria
- (t) Echinococcosis
- (u) Ehrlichiosis, human granulocytic, human monocytic, or unspecified
- (v) Encephalitis
- (w) Enterococcal infection, vancomycin-resistant
- (x) Enterohemorrhagic Escherichia coli (EHEC) infection, including Escherichia coli O157:H7
- (y) Giardiasis
- (z) Gonorrhea: sexually transmitted and ophthalmia neonatorum
- (aa) Haemophilus influenzae, invasive disease
- (bb) Hansen Disease (Leprosy)
- (cc) Hantavirus infection and pulmonary syndrome
- (dd) Hemolytic Uremic Syndrome, postdiarrheal
- (ee) Hepatitis A
- (ff) Hepatitis B, cases and carriers
- (gg) Hepatitis C, acute and chronic infection
- (hh) Hepatitis, other viral
- (ii) Human Immunodeficiency Virus Infection. Reporting requirements are listed in R388-803.
- (jj) Influenza[~~laboratory confirmed~~]-associated hospitalization
- (kk) [~~Kawasaki syndrome~~]Influenza-associated death if the individual was less than 18 years of age
- (ll) Legionellosis
- (mm) Listeriosis
- (nn) Lyme Disease
- (oo) Malaria
- (pp) Measles
- (qq) Meningitis, aseptic and bacterial (specify etiology)
- (rr) Meningococcal Disease, invasive
- (ss) Mumps
- (tt) Norovirus, formerly called Norwalk-like virus, infection
- (uu) Pelvic Inflammatory Disease
- (vv) Pertussis
- (ww) Plague
- (xx) Poliomyelitis, paralytic
- (yy) Psittacosis
- (zz) Q Fever
- (aaa) Rabies, human and animal
- (bbb) Relapsing fever, tick-borne and louse-borne
- (ccc) Reye syndrome
- (ddd) Rheumatic fever
- (eee) Rocky Mountain spotted fever
- (fff) Rubella
- (ggg) Rubella, congenital syndrome
- (hhh) Saint Louis encephalitis
- (iii) Salmonellosis
- (jjj) Severe Acute Respiratory Syndrome (SARS)
- (kkk) Shigellosis
- (lll) Smallpox
- (mmm) Staphylococcal diseases, all outbreaks
- (nnn) Staphylococcus aureus with resistance or intermediate resistance to vancomycin isolated from any site

(ooo) Staphylococcus aureus with resistance to methicillin isolated from any site

(ppp) Streptococcal disease, invasive, isolated from a normally sterile site

(qqq) Streptococcus pneumoniae, drug-resistant, isolated from a normally sterile site

(rrr) Syphilis, all stages and congenital

(sss) Tetanus

(ttt) Toxic-Shock Syndrome, staphylococcal or streptococcal

(uuu) Trichinosis

(vvv) Tuberculosis. Special Measures for the Control of Tuberculosis are listed in R388-804.

(www) Tularemia

(xxx) Typhoid, cases and carriers

(yyy) Viral hemorrhagic fever

(zzz) West Nile virus infection

(aaaa) Yellow fever

(bbbb) Any outbreak or epidemic, including suspected or confirmed outbreaks of foodborne or waterborne disease. Any unusual occurrence of infectious or communicable disease or any unusual or increased occurrence of any illness that may indicate an outbreak, epidemic, Bioterrorism event, or public health hazard, including any newly recognized, emergent or re-emergent disease or disease producing agent, including newly identified multi-drug resistant bacteria.

(2) In addition to the reportable conditions set forth in R386-702-3(1) the Department declares the following reportable emergency illnesses or health conditions to be of concern to the public health and reporting is authorized by Title 26, Chapter 23b, Utah Code, unless made mandatory by the declaration of a public health emergency.

(a) respiratory illness (including upper or lower respiratory tract infections, difficulty breathing and Adult Respiratory Distress Syndrome);

(b) gastrointestinal illness (including vomiting, diarrhea, abdominal pain, or any other gastrointestinal distress);

(c) influenza-like constitutional symptoms and signs;

(d) neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(e) rash illness;

(f) hemorrhagic illness;

(g) botulism-like syndrome;

(h) lymphadenitis;

(i) sepsis or unexplained shock;

(j) febrile illness (illness with fever, chills or rigors);

(k) nontraumatic coma or sudden death; and

(l) other criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

R386-702-7. Special Measures for Control of Typhoid.

(1) Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following outline:

(2) Cases: ~~[Enteric precautions are required during hospitalization]~~ Standard precautions are required during hospitalization. Use contact precautions for diapered or incontinent children under 6 years of age for the duration of illness. Hospital care is desirable during acute illness. Release of the patient from

supervision by the local health department shall be based on ~~[not less than]~~ three or more negative cultures of feces, and of urine in patients with schistosomiasis, taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in R386-702-7(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in R386-702-7(6). The patient shall be restricted from food handling and from providing patient care during the period of supervision by the local health department.

(3) Contacts: Administration of typhoid vaccine is required for all household members of known typhoid carriers. Household and close contacts shall not be employed in occupations likely to facilitate transmission of the disease, such as food handling, during the period of contact with the infected person until at least two negative feces and urine cultures, taken at least 24 hours apart, are obtained from each contact.

(4) Carriers: If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Office of Epidemiology, Utah Department of Health using the process described in R386-702-4. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling and patient care until released in accordance with R386-702-7(4)(a) or R386-702-7(4)(b). All reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) Convalescent Carriers: Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in R386-702-7(6).

(b) Chronic Carriers: Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) Other Carriers: If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Office of Epidemiology, Utah Department of Health. If the person continues to excrete typhoid bacilli for more than 12 months, he is a chronic carrier and may be released after satisfying the criteria for chronic carriers in R386-702-7(6).

(5) Carrier Restrictions and Supervision: The local health department shall report all typhoid carriers to the Office of Epidemiology, and shall:

(a) Require the necessary laboratory tests for release;

(b) Issue written instructions to the carrier;

(c) Supervise the carrier.

(6) Requirements for Release of Convalescent and Chronic Carriers: The local health officer or his representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) For carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local

health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped; or

(c) the local health officer or his representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state.

KEY: communicable diseases, rules and procedures

~~May 16, 2005~~

Notice of Continuation August 20, 2002

26-1-30

26-6-3

26-23b

Human Services, Administration,
Administrative Services, Licensing

R501-15

Therapeutic Schools

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 28132

FILED: 08/08/2005, 14:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The legislature has mandated that all therapeutic schools, as defined in S.B. 107, (passed in 2005 legislature), Subsection 62A-2-101(32) as "a residential group living facility", be licensed by the Office of Licensing. (DAR NOTE: S.B. 107 (2005) is found at UT L 2005 Ch 188, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This proposed new rule will provide a residential group home and academic education for students that require greater structure and supervision to be successful in obtaining an education.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-106 and Subsection 62A-2-101(32)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Little or no fiscal impact--Licensure of Therapeutic Schools will be accomplished with existing resources.

❖ LOCAL GOVERNMENTS: No fiscal impact to local government is anticipated. Therapeutic Schools will simply meet the same local requirements regardless of their state requirements for licensure.

❖ OTHER PERSONS: Therapeutic Schools will pay a licensing fee of \$300 initially and will pay an annual renewal fee yet to be set by the Legislature.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some costs to owners, directors, and staff of Therapeutic Schools related to acquiring the minimum amount of training and experience required to comply with staff qualifications.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Therapeutic schools may experience some limited fiscal impact in order to comply with the rule. However, business that support Therapeutic Schools could experience a positive fiscal impact in the provision of their services. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES

ADMINISTRATION, ADMINISTRATIVE SERVICES,

LICENSING

120 N 200 W

SALT LAKE CITY UT 84103-1500, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Bohi or Ken Stettler at the above address, by phone at 801-538-4153 or 801-538-4235, by FAX at 801-538-4553 or 801-538-4553, or by Internet E-mail at jbohi@utah.gov or kstettler@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Ken Stettler, Director

R501. Human Services, Administration, Administrative Services, Licensing.

R501-15. Therapeutic Schools.

R501-15-1. Authority and Purpose.

1. This rule is authorized under Section 62A-2-106.
2. This rule establishes:
 - a. basic health and safety standards for therapeutic schools;
 - b. procedures and standards for permitting a therapeutic school to provide services to an adult in the same facility and under the same conditions as a child; and
 - c. minimum administration and financial requirements.

R501-15-2. Definitions.

1. "Academic professional" means an educator with a "level 2 license" or "level 3 license," issued in accordance with Section 53A-6-101 et seq.
2. "Adult" means a person 18 years of age or older.
3. "Background screening clearance" means written verification that the Office of Licensing has approved an applicant's criminal, abuse, neglect, and exploitation background screenings.
4. "Child" is defined in Section 62A-2-101.
5. "Client" is defined in Section 62A-2-101.
6. "Dangerous weapon" is defined in Section 76-10-501.

7. "Dietician" means an individual certified in accordance with Utah Code Ann. Title 58 Chapter 49.

8. "Direct access" is defined in Section 62A-2-101.

9. "Direct care staff" means an individual who provides educational, therapeutic services, supervision or care directly to a client, and does not include support staff who do not supervise clients and who only provide support services such as maintenance, office or kitchen duties.

10. "Directly supervised" is defined in Section 62A-2-120.

11. "Explosive, chemical, or incendiary device" is defined in Section 76-10-306.

12. "Facility" means the physical area where program activities take place, and includes the buildings and grounds that are owned or leased by the therapeutic school or its governing body.

13. "Firearm or antique firearm" are defined in Section 76-10-501.

14. "Incident report" means a written description of any notable event, including but not limited to any crime, discipline, injury or illness, or unauthorized absence, and how that event was addressed.

15. "Medical practitioner" means an individual licensed by the State of Utah under Utah Code Ann. Title 58 as a physician, dentist, physician's assistant, practical nurse, or registered nurse.

16. "Mental health therapist" is defined in Section 58-60-102.

17. "Mental illness" is defined in Section 62A-15-602.

18. "Mental retardation" means having significantly below average intellectual functioning, and at the same time needing help with two or more basic life skills.

19. "On call" means immediately available to staff by telephone, and able to be present on site within one hour after a staff telephone call for assistance.

20. "On duty" means awake, within visual and auditory proximity of clients, and immediately available to clients.

21. "Recreational therapist" means an individual licensed to practice recreational therapy in accordance with Utah Code Ann. Title 58 Chapter 40.

22. "Regular business hours" is defined in Section 62A-2-101.

23. "Residential treatment" is defined in Section 62A-2-101.

24. "Service plan" means a written description of the educational, therapeutic, and other services an individual client requires, as determined and updated after periodic assessments by a mental health therapist or an academic professional.

25. "Sick" means to have a fever, an illness that may be contagious, or to be experiencing diarrhea or vomiting.

26. "Staff" means therapeutic school directors, supervisors, faculty, employees, agents, interns or volunteers who provide any therapeutic school services.

27. "Supervisor designee" means a direct care staff who currently meets all qualifications described in R501-15-6.C and is assigned by the program Director to act as a supervisor for a specified limited period of time.

28. "Therapeutic school" is defined in Section 62A-2-101.

R501-15-3. Legal Requirements.

1. A therapeutic school shall comply with this R501-15 and:

a. R495-876, Provider Code of Conduct;

b. R501-2, Core Standards;

c. R501-14, Background Screening;

d. R710-4, Buildings Under the Jurisdiction of the State Fire Prevention Board;

e. R710-9, Rules Pursuant to the Utah Fire Prevention Law; and

f. all applicable local, state, and federal laws.

2.a. A therapeutic school shall comply with R501-19 and obtain a residential treatment license prior to offering any residential treatment services.

b. A therapeutic school shall comply with R501-16 and obtain an intermediate secure treatment license prior to offering any intermediate secure treatment services.

R501-15-4. Administration Requirements.

1. A current policy and procedure manual will be maintained, and shall include:

a. admission criteria and procedures, which shall include:

i. A student may not attend a therapeutic school unless there is presented to the school a certificate of immunization from a licensed physician or authorized representative of the state or local health department stating that the student has received immunization against communicable diseases as required by Utah Administrative Rule R396-100, unless exempted as provided in Section 53A-11-302; and

ii. client admission, exclusion, and expulsion criteria described in Subection 501-15-4.B.1.

b. quarterly client needs evaluation and assessment procedures;

c. behavior management training requirements;

d. methods for compliance with each section of this R501-15;

e. an emergency transportation plan, describing how the therapeutic school shall safely transport each client to the client's legal guardian within 48 hours;

f. an emergency response plan, describing how the therapeutic school shall safely care for each client in the event of severe weather, a fire, natural disaster, significant criminal activity, major medical incident, prolonged power outage, or other emergency; and

g. methods for compliance with each legal requirement.

2. A current client manual will be provided to each client and each client's legal guardian before the therapeutic school accepts any payment or processes any application to provide services. The manual shall include detailed descriptions of:

a. client admission, exclusion, and expulsion criteria and procedures, including but not limited to:

i. A therapeutic school shall not admit or provide services to an individual who:

A. has a recent history (within the past 2 years) of attempting suicide or making serious self-harm gestures (requiring medical or therapeutic treatment),

B. has a psychosis, schizophrenia, severe depression, mental retardation, or a severe mental illness (requiring medical or therapeutic treatment),

C. is violent, highly combative, or physically or sexually aggressive,

D. presents substantial security risks,

E. requires medical detoxification,

F. lacks the ability to engage in a rational decision-making process or exhibits severely impaired judgment, or

G. has a history of repeated runaway attempts or incidents;

ii. A therapeutic school shall expel a client who exhibits high risk behavior or conditions, including but not limited to a client who:

A. attempts suicide or makes serious self-harm gestures (requiring medical or therapeutic treatment),

B. has a psychosis, schizophrenia, severe depression, mental retardation, or a severe mental illness (requiring medical or therapeutic treatment);

C. is violent, highly combative, or physically or sexually aggressive;

D. presents substantial security risks;

E. requires medical detoxification;

F. lacks the ability to engage in a rational decision-making process or exhibits severely impaired judgment;

G. runs away or attempts to runaway more than two times;

H. uses or attempts to use illegal substances (including but not limited to drugs or alcohol) more than two times, or

I. exhibits any other behavioral or emotional conditions that require more intense supervision and treatment than that permitted in a therapeutic school;

b. academic accreditation, or disclosure that the school is not accredited;

c. curriculum;

d. criteria for awarding course credit, and whether credits are transferable;

e. grades, progress assessment, and testing;

f. academic and career counseling;

g. academic activities and methods;

h. graduation requirements;

i. post-graduation planning services;

j. methods of providing specialized structure and supervision of clients on-site;

k. methods of providing specialized structure and supervision of clients off-site;

l. services or treatment related to a client's disability, emotional development, behavioral development, familial development, or social development;

m. behavior management practices;

n. individual, group, or family counseling services;

o. therapeutic school rules, including but not limited to rules regarding discipline, searches, visitation, correspondence, and personal possessions;

p. food service and weekly menus;

q. physical education and recreational activities;

r. client rights statement;

s. permitted and prohibited weapons;

t. a client grievance policy, including an appeal process; and

u. name and contact information for the Office of Licensing.

3. All staff and client files, manuals, and records shall be maintained in an on-site office. The on duty supervisor or supervisor designee shall have access to all locked files, including computer files, and make them available upon request to the Office of Licensing.

R501-15-5. Financial Requirements.

1. A therapeutic school shall provide a written disclosure of all fees and expenses a client may incur, and identify which fees may be non-refundable, before accepting any payment, processing any application, or entering any contract to provide client services.

2. A therapeutic school shall provide an itemized accounting of actual expenditures made on behalf of each client before requiring reimbursement from the client's guardian.

3. A therapeutic school shall maintain an accurate log of all funds deposited and all withdrawals made for the personal use of each client. Receipts for purchases of over \$20.00 shall be signed by the client and staff, and maintained with the log.

R501-15-6. Staff Requirements.

1. Each owner and board member of a therapeutic school shall successfully complete a minimum of 8 hours of annual training relating to therapeutic school services.

2. A therapeutic school shall employ a director who is responsible for daily client supervision and operation of the program.

a. A director shall be on duty or on call at all times.

b. The director shall:

i. be at least 25 years of age;

ii. have a BS or BS social services degree, or a minimum of three years of documented training or experience in providing therapeutic school or residential treatment services;

iii. have a minimum of two years of therapeutic school or residential treatment program supervisory experience; and

iv. demonstrate a comprehensive knowledge of this R501-15, R495-876, R501-1, R501-2, R501-3, R710-4, R710-9, and all applicable local, state, and federal laws.

c. The governing body of a therapeutic school may appoint an acting director to fulfill the responsibilities of the Director.

i. An acting director shall satisfy all requirements of Subsection R501-15-6.B.2 at the time of appointment.

3. A therapeutic school shall have a minimum of one supervisor or supervisor designee on duty at all times.

a. A supervisor or supervisor designee shall have:

i. a demonstrated, documented competency and proficiency in providing services to children in out-of-home placements;

ii. qualifications, including education, experience, licensing or certification requirements, and current annual continuing education and training, directly related to providing:

A. specialized structure and supervision of clients; or

B. services or treatment related to a client's disability, emotional development, behavioral development, familial development, or social development;

iii. current certification in standard first aid;

iv. current certification in CPR;

v. current certification in passive restraint techniques; and

vi. current background screening clearance.

4. A therapeutic school shall maintain a staff manual, which shall include specific:

a. job descriptions for each staff position;

b. qualifications, including education, experience, and licensing or certification requirements, for each staff position;

c. competency and proficiency requirements for each staff position; and

d. continuing education and training requirements for each staff position.

5. Each staff with direct access to a client shall be directly supervised by a supervisor or supervisor designee until the staff:

a. achieves the qualifications, competency and proficiency requirements, and training requirements of the applicable job description;

b. receives current certification in standard first aid;

c. receives current certification in CPR;

d. receives current certification in passive restraint techniques;

e. successfully completes annual training in working with clients who have a history of failing to function at home or in school;

f. receives current background screening clearance; and

g. demonstrates a working knowledge of:

A. R495-876, Provider Code of Conduct;

B. R501-2, Core Standards;

C. R501-15, Therapeutic Schools;

D. the current therapeutic school policy and procedure manual;

E. the current therapeutic school client manual and

F. all applicable local, state, and federal laws.

6. A therapeutic school shall have a policy, subject to the approval of the Office of Licensing, which clearly defines the minimum levels of supervision of clients by direct care staff.

a. A therapeutic school shall submit a proposed minimum direct care staff-to-client ratio with its license application and each time the activities or the client population of the therapeutic school are modified.

b. A therapeutic school shall identify the minimum direct care staff-to-client ratio for each type of activity its clients engage in, including but not limited to various types of on-site and off-site activities, specific low risk and high risk activities, individual and group activities, and waking and sleeping hours.

c. A therapeutic school shall consider factors particular to its client population, including but not limited to clients' presenting problems, risk to the community, age, maturity, behavior, and daily schedule, in determining its minimum direct care staff-to-client ratio.

d. A minimum of 2 staff shall be on duty at all times.

e. A minimum of one male staff shall be on duty when a male client is present, and a minimum of one female staff shall be on duty when a female client is present.

f. A client who has earned the privilege of unsupervised time off site shall be required to engage in two-way communication with on duty direct care staff once every 4 hours.

i. A therapeutic school shall develop and adhere to a policy that specifies what measures shall be taken if a client fails to check-in with staff when scheduled.

g. A therapeutic school's approved minimum direct care staff-to-client ratio shall be visibly posted.

h. A therapeutic school shall comply with approved minimum direct care staff-to-client ratios.

i. Support staff shall not be counted when ascertaining compliance with the approved minimum direct care staff-to-client ratios.

7. A therapeutic school shall be required to justify, to the satisfaction of the Office of Licensing, basic low risk, on-site "waking hours" direct care staff-to-client ratio that does not meet or exceed:

a. two direct care staff on duty for 1-8 clients;

b. three direct care staff on duty for 9-24 clients;

c. four direct care staff on duty for 25-48 clients;

d. five direct care staff on duty for 49-96 clients;

e. 1:20 direct care staff-to-client ratio for 97 or more clients, and never any less than six direct care staff on duty.

8. A therapeutic school shall be required to justify, to the satisfaction of the Office of Licensing, any "sleeping hours" direct care staff-to-client ratio that does not meet or exceed:

a. two direct care staff on duty for 1-48 clients;

b. a 1:40 direct care staff-to-client ratio for 49 or more clients, and never any less than three direct care staff on duty.

R501-15-7. Documentation.

1. A therapeutic school shall maintain a current roster of all clients, including the name, date of birth, sex, and emergency contact information.

2. A therapeutic school shall maintain staff files, which shall include:

a. application and resume;

b. qualifications for the staff position held;

c. written competency evaluations, which shall be completed six months after the date of hire and a minimum of once annually;

d. continuing education, training, and certifications; and

e. background screening approval verification.

3. A therapeutic school shall maintain client files, which shall include:

a. application forms and contracts signed by client's legal guardian;

b. acknowledgment of client rights signed by client and client's legal guardian;

c. academic records, including quarterly progress reports and all records of standardized testing, grades, credits earned, and diplomas awarded;

d. medical records, including medication log and medical treatment records;

e. counseling notes, signed by the counselor;

f. incident reports, signed by supervisor or supervisor designee on duty; and

g. daily shift report, signed by supervisor or supervisor designee on duty.

R501-15-8. Client Services.

1. A service plan, to include specific educational and therapeutic goals, shall be developed within thirty days after admission.

a. A service plan shall be reviewed, updated, and signed by the client and a supervisor no less than quarterly.

i. the service plan shall include a quarterly reassessment of the suitability of the therapeutic school in providing for the client's needs.

b. A copy of the service plan shall be provided to the client's legal guardian within two weeks after it is developed and within two weeks after it is updated.

2. A therapeutic school shall have written policies and procedures describing how medical services will be promptly provided.

a. A therapeutic school that must travel more than thirty miles to an emergency room or 24-hour urgent care facility shall retain the on-call services of a medical practitioner and a licensed mental health therapist.

b. Upon admission, each client shall be informed of the right to consult with a medical practitioner or a licensed mental health therapist.

3. A client who has a serious illness, who sustains a serious injury, or who requests the services of a medical practitioner, shall receive an immediate assessment by a certified wilderness first responder, certified EMT, or a medical practitioner.

a. The therapeutic school shall attach the written assessment to an incident report.

b. The therapeutic school shall comply with the recommendations of the certified wilderness first responder, certified EMT, or medical practitioner.

4. A monthly schedule of activities shall be posted in the common area and the office. Monthly schedules of activities shall be filed and retained for a minimum of one year.

5. A therapeutic school's academic curriculum shall be accredited by an accrediting entity recognized by the Utah State Board of Education, or it shall present an educational service plan and educational funding plan in accordance with Section 62A-2-108.1.

a. The therapeutic school curriculum shall be provided to each client and the client's legal guardian prior to accepting any payment or processing any application to provide services.

b. The therapeutic school curriculum shall be reviewed and updated annually.

c. Modifications to the curriculum shall be provided to each client and the client's legal guardian within two weeks of any curriculum change.

6. The therapeutic school shall monitor and document each client's academic progress, and communicate this information to the client's legal guardian monthly.

R501-15-9. Physical Environment.

1. A therapeutic school shall provide written verification of compliance with:

a. local zoning ordinances;

b. local business license requirements;

c. local building codes, as evidenced by the local governmental entity's building inspector;

d. state fire prevention laws and rules; and

e. state and local health codes and rules regarding sanitation and infectious disease control.

2. The building and grounds shall be maintained in a safe and sanitary manner.

3. A therapeutic school shall have on-site offices.

a. Staff and client records shall be stored in locked file cabinets when not in active use.

b. A private office shall be available for individual counseling sessions.

4. A therapeutic school shall provide indoor common areas, such as gymnasiums, recreation areas, cafeterias, classrooms, libraries, and lounges, for group activities.

a. The total common area space in a therapeutic school shall be a minimum of thirty square feet per client.

5.a. A therapeutic school shall maintain a minimum of 3 feet between beds and 2 feet at the end of each bed.

b. Bedroom ceilings shall be a minimum of 7 feet in height.

c. A minimum of fifty square feet per client shall be provided in a multiple occupant bedroom.

i. Storage space shall not be counted when calculating square footage requirements.

d. A minimum eighty square feet per client shall be provided in a single occupant bedroom.

i. Storage space shall not be counted when calculating square footage requirements.

e. Each client shall have a minimum of thirty cubic feet of private storage space.

f. Sleeping areas shall have a source of natural light, and shall be ventilated by mechanical means or equipped with a screened window that opens.

g. Each bed shall be solidly constructed.

h. Bed mattresses shall be in a clean and safe condition.

i. Each client shall be provided with clean linens upon arrival, when soiled, and a minimum of once per week.

j. Sleeping quarters serving male and female clients shall be structurally separated.

6. A therapeutic school shall provide a minimum of one toilet, one sink, one mirror, and one bathtub or shower, for each six clients.

a. Each bathroom shall be designated for males only or for females only.

b. A bathroom with multiple toilets, showers, or bathtubs shall be subdivided to preserve each client's privacy.

c. Each bathroom shall be maintained in good operating order and in a clean and safe condition.

d. Each bathroom shall be equipped with personal hygiene supplies, including but not limited to toilet paper, clean towels, trashcans, and soap.

e. Bathrooms shall be well lighted and ventilated by mechanical means or equipped with a screened window that opens.

7. Live-in staff shall have a separate bedroom with a private bathroom.

8. Clients who are sick shall have a bedroom and bathroom separate from clients who are not sick.

9. All furniture and equipment shall be maintained in a clean and safe condition.

10. School desks or tables, lights, and chairs shall be provided for each client.

11. A therapeutic school shall contract with a laundry service or shall provide laundry appliances and supplies for washing, drying, and ironing.

a. Each client shall have a dirty laundry hamper for personal linens and clothing;

b. all personal linens and clothing shall be laundered weekly;

c. clients who launder their own linens or clothing shall have weekly access to laundry appliances and supplies for washing, drying, and ironing;

d. a common laundry hamper shall be provided for linens owned by the therapeutic school;

i. dirty linens shall be laundered within 72 hours; and

e. laundry appliances shall be maintained in a clean and safe operating condition.

12.a. Firearms, antique firearms, ammunition, and explosive, chemical, or incendiary devices, shall not be permitted on site.

b. Dangerous weapons, including but not limited to tools, knives (including kitchen knives), scissors, matches, lighters, clubs, bats, and arrows, shall be inaccessible to clients, except as specifically authorized in the client manual.

i. A therapeutic school's client manual shall describe which dangerous weapons are permitted and which dangerous weapons are prohibited on site.

A. the determination of permitted and prohibited dangerous weapons shall be made in accordance with the age and behavioral characteristics of the client population to be served.

ii. A therapeutic school's client manual shall describe how dangerous weapons shall be stored, and the circumstances under which they may be accessible to clients.

13.a. Animals and pets shall be free from disease and cared for in a safe and clean manner.

b. A therapeutic school shall maintain a file documenting the health of each pet or domestic animal on site. The file shall include written verification of each animal's current rabies vaccinations, species-specific vaccinations, health care, and health history.

R501-15-10. Food Service.

1. A therapeutic school shall contract with or employ a dietitian to plan nutritious, appetizing, snacks and meals.

a. a current weekly menu shall be posted in the kitchen and the office.

2. A therapeutic school shall provide snacks and three daily meals in accordance with the dietitian's menu.

3. A therapeutic school shall maintain a current log of each client's food allergies and other individual dietary needs, and comply with the instructions of the client's physician or dietician.

4. A therapeutic school shall establish and post kitchen safety and sanitation rules.

5. A therapeutic school kitchen shall have clean, safe, and operational equipment and supplies for the preparation, storage, serving, and clean up of food.

6. A dining area shall be provided, with tables and chairs for each client.

7. The dining area shall be maintained in a clean and safe condition.

8. No staff or client shall prepare food without first obtaining Utah Department of Health food handler certification.

R501-15-11. Hazardous Chemicals and Materials.

1. A therapeutic school shall place all hazardous chemicals and materials, including but not limited to poisonous substances, explosive or flammable substances, laundry detergent and cleaning supplies, in locked storage when not in active use.

a. a client shall have no access to any hazardous chemicals or materials unless the client is directly supervised by staff.

2. A therapeutic school shall place all medications in locked storage when not in active use.

a. Non-prescription medications shall be stored in their original manufacturer's packaging together with manufacturer's directions and warnings.

b. Prescription medications shall be stored in their original pharmacy packaging together with the pharmacy label, directions and warnings.

3. A therapeutic school supervisor or supervisor designee shall:
a. administer or oversee the self-administration of prescription medications only as prescribed by a licensed physician;

b. administer or oversee the self-administration of non-prescription medications only as directed by the manufacturer;

c. observe the client consume any medication;

d. maintain an individual client medication log, which shall include the medication, time and dosage dispensed, and the effects of the medication.

4. Each client medication log shall be maintained together with the medication in locked storage while the client is actively enrolled in the therapeutic school, and transferred to the client's file when the client leaves the therapeutic school.

5. Unused medications shall be destroyed by two staff, and the destruction shall be documented.

KEY: human services, therapeutic schools

2005

62A-2-106



**Labor Commission, Antidiscrimination
and Labor, Fair Housing
R608-1-8
Response to Complaint**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28127

FILED: 08/02/2005, 14:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to conform Utah Fair Housing procedures with federal requirements. Specifically, this amendment changes the period allowed for filing a response to a Fair Housing complaint from 20 days to 10 days.

SUMMARY OF THE RULE OR CHANGE: The only change made by this amendment to Subsection R608-1-8(A) is to reduce from 20 days to 10 days the time allowed for filing a response to a Fair Housing complaint. (DAR NOTE: A corresponding 120-day (emergency) rule that was effective 08/02/2005 is under DAR No. 28126 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 57-21-9(2)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This amendment will not produce either costs or savings in the administration of the Fair Housing program and will have no effect on the state budget.

❖ **LOCAL GOVERNMENTS:** This rule will apply to some local government entities in their role as housing providers. Under the existing rule, a respondent to a Fair Housing complaint is required to file a response within 20 days. Under the amended rule, the response must be filed within 10 days. In all other respects, the response requirement remains the same. Consequently, the Commission anticipates no cost or savings to local government.

❖ **OTHER PERSONS:** This rule will apply to landlords and others engaged in housing-related services. Under the existing rule, a respondent to a Fair Housing complaint is required to file a response with 20 days. Under the amended rule, the response must be filed within 10 days. In all other respects, the response requirement remains the same. Consequently, the Commission anticipates no cost or savings to other persons subject to this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule imposes no new requirements but only changes the timing of existing requirements. The Commission anticipates no additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: While this amendment shortens the response period in Fair Housing proceedings, it does not impose any other procedural or substantive requirements. Businesses that have been subject to the response requirement under Subsection R608-1-8(A) in the past can continue to submit the same types of responses in the future. This amendment's change to the timing of such responses is not anticipated to have any fiscal impact on business. R. Lee Ellertson, Commissioner

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, FAIR HOUSING
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:

Sherrie M. Hayashi at the above address, by phone at 801-530-6921, by FAX at 801-530-7609, or by Internet E-mail at shayashi@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: R Lee Ellertson, Commissioner

R608. Labor Commission, Antidiscrimination and Labor, Fair Housing.

R608-1. Utah Fair Housing Rules.

R608-1-8. Response to Complaint.

A. A respondent shall file a signed response to the complaint with the Division within ~~[20]~~10 days from the date of the notice required by R608-1-7.B.

B. The response must address each allegation contained in the complaint, including any available and relevant data and information regarding respondent's business practices.

C. Division staff shall be available during normal business hours to provide reasonable assistance to respondents in completing and filing responses.

D. Failure to file a response may result in the Division concluding its investigation based on information provided by the complainant and such other information as is reasonably available to the Division. Alternatively, the Commission may use its subpoena powers to compel production of the information required by this rule.

KEY: housing, fair housing, discrimination, time
[December 2, 1999]2005
Notice of Continuation January 10, 2002
57-21-1 et seq.
63-46b-1 et seq.

Public Service Commission,
Administration
R746-341
Lifeline/Link-up Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28137

FILED: 08/12/2005, 15:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes are being made to further update and clarify the guidelines, eligibility, and verification requirements for carriers and individuals to participate in the state Lifeline program.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments update or clarify: 1) Subsection R746-341-2(A) which clarifies that the responsible agency is a state government agency; 2) Section R746-341-3 which clarifies that eligibility is based on consideration of the household and not the individual, and clarifies that the application will identify the telephone service provider and Link-up America inclusion, and that records will be maintained as agreed between the responsible agency and the Commission; 3) Section R746-341-4 which clarifies that the continuing verification responsibility lies with the responsible agency and not telephone companies, and clarifies the notice process that will be followed to establish continuing eligibility and how a participant may appeal an adverse eligibility determination; 4) Section R746-341-5 which clarifies that a participant need not subscribe to other services, but if so choosing, needs to comply with the terms applicable to these other services; and 5) Section R746-341-6 which clarifies that the Link-up America discount will be applied to eligible customer's accounts. Subsections R746-341-4(C)(2), R746-341-4(C)(4), R746-341-4(C)(5), and R746-341-5(D), and Section R746-341-10 are deleted to remove redundant provisions and to effect these clarifications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-8b-15

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or saving impacts upon state agency budgets because the changes are to update and clarify the existing process and rule.

❖ LOCAL GOVERNMENTS: No effect because this rule does not affect local government budgets or local government activities.

❖ OTHER PERSONS: No cost or saving impacts are expected as the changes are to clarify the existing process and application of the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed rule text changes clarify the existing process and rule application. No change is expected in the substantive conduct of individuals participating in the Lifeline program, telephone companies, or state agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Informal comments on the existing rule have indicated that various provisions could be clarified to avoid questions about the processes and procedures to be followed in operating the Lifeline program. The proposed changes should have no fiscal impact as they are made to have the rule language more closely follow the existing and anticipated process and avoid ambiguity that may exist in the current rule. Ric Campbell, Chairman

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
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:

Sandy Mooy or Barbara Stroud at the above address, by phone at 801-530-6708 or 801-530-6714, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at smoooy@utah.gov or bstroud@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

R746. Public Service Commission, Administration.

R746-341. Lifeline/Link-up Rule.

R746-341-1. Applicability.

Telecommunications corporations that have been designated as eligible telecommunications carriers by the Commission, pursuant to Section 214 of the Federal Communications Act, shall establish a lifeline telephone service pursuant to the requirements of Sections 2 through 10.

R746-341-2. Definitions.

A. "Applicant" -- means the eligible telecommunications customer who owns and resides in a residential property or rents and resides in a residential property.

B. "Responsible Agency" -- means the state government agency that administers the certification, verification, and continued verification of Lifeline enrollment.

C. "ETC" -- means the eligible telecommunications carrier.

D. "Federal Poverty Guidelines" -- means the poverty guidelines issued each year by the Department of Health and Human Services and published in the Federal Register.

E. "Income" -- means gross income, whether earned or unearned, received by all members of the household including, but not limited to, salary before deductions. Income shall not include student financial aid, military housing and cost-of-living allowances, or irregular income from occasional small jobs.

R746-341-3. Eligibility Requirements.

A. Program-Based Criteria -- The ETCs shall provide lifeline telephone service to any applicant who self-certifies, under the penalty of perjury, [the]his household [members' eligibility]is eligible for public assistance under one of the following or its successor programs:

1. Temporary Assistance to Needy Families (TANF);
2. Work Toward Employment;
3. Food Stamps;
4. General Assistance;
5. Home Energy Assistance Target Programs/Help Program;
6. Medicaid;
7. Refugee Assistance;
8. Supplemental Security Income.
9. Federal Public Housing Assistance, including Section 8 Housing;
10. National School Lunch Free Lunch Program; or
11. Head Start Program (income qualifying standard only).

B. Income-Based Criteria -- The ETCs shall provide lifeline telephone service to any applicant who certifies via supporting documentation, under the penalty of perjury, his household income to be at or below 135 percent of the then applicable Federal Poverty Guidelines.

1. Income-based eligibility is based on family size and actual income, therefore, the Lifeline customers must certify, under the penalty of perjury, the number of individuals residing in their household.

2. A Lifeline customer must certify, under the penalty of perjury, that the documentation presented accurately represents the applicant's annual household income. The following documents, or any combination of these documents, are acceptable for Lifeline certification;

- a. Prior year's state, federal, or tribal tax return;
- b. Current year-to-date earnings statement from an employer or three consecutive months of paycheck stubs;
- c. Social Security statement of benefits;
- d. Veterans Administration statement of benefits;
- e. Retirement/pension statement of benefits;
- f. Unemployment/Worker's Compensation statement of benefits;
- g. Federal or tribal notice letter of participation in Bureau of Indian Affairs General Assistance; or
- h. Divorce decree, or child support wage assignment statement.

C. Certification -- The application form for participation will be supplied by the ETC or the responsible agency and contain the following:

1. applicant's name, [current]program participating telephone number, if available, identification of the ETC which the applicant anticipates will provide service, and social security number;
2. a request for lifeline service, and where applicable, a request for Link-up America Plan participation;
3. an affirmative statement that the applicant qualifies for lifeline service.
4. a statement, under the penalty of perjury, as to whether the person is participating in one of the programs listed in Subsection R746-341-3.A or other federal eligibility criteria; or a statement, under the penalty of perjury, as to whether the person's household income is at or below 135 percent of the Federal Poverty Guidelines.

a. If qualified by income-based criteria, ~~[certification must be supported by acceptable documentation listed in R746-341-3-B.]~~ a statement, under penalty of perjury, that identifies the number of individuals residing in the household and affirms that the documentation presented to support eligibility accurately represents the applicant's household income.

5. a statement that if the applicant is later shown to have submitted a false self-certification for the Lifeline program, the applicant will be responsible to pay the difference between the lifeline service rate and the otherwise applicable service rate;

6. a statement whether this is a new connection or a reconnection; and

7. the applicant's signature.

D. Documentation Retention -- The responsible agency will retain income and program eligibility certification for as long as ~~[the eligible customer receives Lifeline service from an ETC]~~ agreed with the Commission.

E. Tribal Land Lifeline Discounts -- Customers who live on tribal lands and who qualify for the state Lifeline service rate based on the program qualifications, other federal eligibility criteria, and income qualifications set forth in R746-341-3-~~B~~, are eligible to receive a larger federal discount. Those federal discounts are not within the scope of, nor governed by, these rules.

R746-341-4. Continuing Eligibility.

A. Annual Verification -- The continuing eligibility of ~~[all]~~ customers on the Lifeline service rate shall be verified annually

B. ~~[ETC]~~ Verification Responsibilities -- At least annually, the [ETCs offering Lifeline telephone service] responsible agency shall provide the [responsible agency with computer tapes, written lists, or personal computer disks, listing their Lifeline service customers' names, telephone numbers, addresses and social security numbers. ETCs with more than 300 Lifeline telephone customers shall provide the information in an electronic format useable by the responsible agency. ETCs with less than 300 customers shall provide the information in a format designated by the responsible agency.] ETCs with information identifying customers who are eligible for Lifeline service or Link-up America Plan participation.

C. Verification ~~[Criteria]~~ Methods -- The responsible agency will verify the continued eligibility of Lifeline customers under the program-based and income-based eligibility criteria.

1. The responsible agency shall identify a method by which income eligibility will be verified on an annual basis including, but not limited to, annual self-certification, random beneficiary audits, a periodic submission of income documents, or the continued eligibility of a statistically valid sample of Lifeline customers.

2. ~~[The responsible agency will use the records provided in Subsection R746-341-3.A. to match, using the state computer system, against program participation.~~

~~3.]~~ Should the ETC have a reasonable basis to believe that a Lifeline telephone service customer no longer qualifies for Lifeline service in accordance with this rule, the ETC shall inform the responsible agency. If a Lifeline customer does not appear as a participant in a program on the state computer system or the responsible agency otherwise has a basis to believe that the customer no longer qualifies for Lifeline service, the responsible agency will send a [letter] notice to the Lifeline customer requesting;

a. proof of participation in any of the programs listed in R746-341-3.A or other federal eligibility criteria; or

b. documentation of eligibility under the income-based criteria set forth in R746-341-3.B.

~~[4. The responsible agency shall notify any Lifeline customer who fails to supply proof of participation in one of the programs listed in R746-341-3.A or documentation of income eligibility as listed in R746-341-3.B of an intent to discontinue the customer's eligibility for the Lifeline service discount. The letter will explain the appeals process as set forth in Subsection R746-341-4.D.]~~

~~[a]c.~~ The notice must allow the customer at least ~~[60]~~ 40 days to demonstrate continued eligibility consistent with this rule.

~~[5. If the customer fails to file an appeal within the prescribed appeal period, or if the customer does not prevail on appeal, the responsible agency will notify each ETC, using a format designated by the responsible agency, that the customer is no longer eligible for the Lifeline service rate.]~~

D. Termination Notices and Dispute Resolution --

1. ~~[Should the ETC or the responsible agency have a reasonable basis to believe that a Lifeline telephone service customer no longer qualifies for Lifeline service in accordance with this rule, the ETC or]~~ If the customer fails to respond to the notice given pursuant to R746-341-4.C.2. or otherwise establish continued eligibility, the responsible agency shall notify the customer of its intent to discontinue the customer's eligibility and the basis for that decision. The program eligibility termination notice shall be in writing and shall be delivered to the customer [in a mailing separate from the customer's monthly bill]'s mailing address.

a. The program eligibility termination notice must allow the customer at least ~~[60]~~ 20 days to demonstrate continued eligibility consistent with this rule. The customer's participation in Lifeline may not be discontinued during the ~~[60]~~ 20-day period.

b. The notice shall also alert the customer of the option to continue local telephone service after termination of Lifeline benefits at the non-discounted rate.

2. If the customer fails to provide proof of continued eligibility as required, ~~[or if the ETC]~~ or the responsible agency does not accept the customer's proof of continued eligibility, [the ETC or] the responsible agency shall notify the customer in writing of its determination [and intent] to discontinue the customer's participation in the program. The notice shall also include instructions for filing an appeal of the determination.

a. The customer may appeal this decision within ten days of the notification by filing a written notice of appeal with the ~~[agency assigned responsibility for administering the Lifeline program]~~ Division of Public Utilities.

b. Lifeline benefits will continue pending an appeal of a non-eligibility decision.

3. The appeal shall be addressed consistent in time and manner with the dispute resolution procedures set forth in R746-240-7 and 8 that provide for review and resolution of disputes between telecommunications carriers and consumers with the responsible agency in place of a telecommunications carrier.

E. False Certification Penalties -- A Lifeline telephone service customer who does not qualify and has falsely self-certified and participated in the Lifeline program will be responsible to pay the difference between the Lifeline service rate and the otherwise applicable service rate for the length of time the customer subscribed to Lifeline telephone service for which the customer was not eligible.

R746-341-5. Lifeline Telephone Service Features.

A. Discounts -- Lifeline telephone service provided by ETCs shall consist of dial tone line, usage charges or their equivalent, and any Extended Area Service (EAS) charges, less a discount of \$3.50 and any other matching funds established by the Federal Communication Commission.

B. Deposits -- When customer security deposits are otherwise required, they will be waived for Lifeline telephone service customers if the customer voluntarily elects to receive toll blocking.

C. Link-Up America Plan Participation -- Companies providing Lifeline service shall apply for the Link-Up America Plan provided by the Federal Communications Commission.

~~D. [Link-Up America Plan Discounts -- In addition to the Link-Up America reduction, Lifeline qualifying customers are entitled to a 50 percent reduction of the remaining connection charges.~~

~~E.]~~ Nonrecurring Charge Waiver -- Lifeline telephone service customers will receive a waiver of the nonrecurring service charge for changing the type of local exchange usage service to Lifeline service, or changing from flat rate service to message rate service, or vice versa, but only one such waiver shall be allowed during any 12-month period.

~~F]E.~~ Disconnection -- Lifeline service shall not be disconnected for nonpayment of toll service.

~~G]E.~~ Restrictions -- Lifeline telephone service will be subject to the following restrictions:

1. Lifeline telephone service will only be provided to the applicant's principal residence.

2. A Lifeline telephone service customer will only receive a Lifeline discount on one single residential access line.

~~H]G.~~ Other Services -- A Lifeline telephone service customer will not be required to purchase other services from the ETC, nor prohibited from purchasing ~~vertical~~ other services unless the customer has failed to comply with the ETC's terms and conditions for those services.

R746-341-6. Link-up America Plan Telephone Service.

A. Link-Up -- An ETC shall provide the initial installation for telephone service to any applicant who qualifies for Lifeline service in accordance with the eligibility criteria listed under R746-341-3.

1. Link-up telephone service provided by ETCs is a federal program that provides a 50 percent discount of the initial hook-up fee, up to \$30.00, for eligible customers. ETCs shall apply the Link-up America Plan discount to eligible customers identified by the responsible agency.

B. Enhanced Link-UP -- Customers who live on tribal lands and qualify for the state Lifeline service rate under R746-341-3, are eligible to receive a larger federal discount. Those federal discounts are not within the scope of, nor governed by, these rules.

R746-341-7. Reporting Requirements.

A. Reporting Requirements -- ETCs shall submit, to the Division of Public Utilities, a semi-annual report, by June 30 and December 31, of each year, containing a description of the ETC's Lifeline program. The reports shall also contain monthly information on:

1. the forgone revenue resulting from the discounts provided to Lifeline customers;
2. the amounts of administrative, advertising, voucher and other program expenses;
3. interest accrual amounts on Lifeline and Link up funds; and

4. the number of Lifeline telephone service customers by exchange area; and

5. a detailed report of outreach efforts.

R746-341-8. Funding of Lifeline.

A. Cost Recovery -- The total cost of providing Lifeline telephone service, including the administrative costs of the ETCs and the costs incurred by the responsible agency, shall be recovered and funded as provided in 54-8b-15.

R746-341-9. Collection and disbursement of Lifeline Funds.

A. ETC Payment -- Within 30 days after review and audit of an ETC's semi-annual report, the Public Service Commission shall disburse an amount equal to the ETC's semi-annual Lifeline program expenses and Lifeline discounts granted.

[

~~R746-341-10. Outreach Guidelines.~~

~~A. Reporting and Coordination -- ETCs shall report their outreach efforts to the Public Service Commission, as well as coordinate with agencies that administer any of the relevant government assistance programs to maximize public awareness and participation in the Lifeline Program.]~~

KEY: telephone, telecommunications, rules and procedures, lifeline rates

~~[June 20,]2005~~

Notice of Continuation November 15, 2000

54-4-1

54-4-4



Public Service Commission,
Administration
R746-345
Pole Attachments for Cable Television
Companies

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28139

FILED: 08/15/2005, 11:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to establish the rates, terms, and conditions by which attachments may be made to the poles of public utilities.

SUMMARY OF THE RULE OR CHANGE: The amendment establishes terms for a generally available contract by which parties may arrange pole attachments. The rule will now identify a rental rate formula and methodology by which rates are to be established for pole attachments which may be sought and made available. The rule follows an approach similar to the Federal Communications Commission's rate setting methodology. The amended rule establishes a dispute resolution process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-4-13 and 47 U.S.C. 224(c)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: State agency activity in relation to pole attachment activities will stay the same, therefore, there are no costs or savings.
- ❖ LOCAL GOVERNMENTS: None--Local government activities are not affected by this rule. Local governments are not subject to Commission jurisdiction.
- ❖ OTHER PERSONS: Indeterminable--To the extent that rates set pursuant to the rule are lower than those previously charged, revenue reductions will occur for those entities which previously charged the higher rate; this will be offset by a reduction in costs or expenses of those entities who previously paid the higher rate. A concomitant change will occur in situations where the rule sets a rate higher than that previously charged. These changes in revenues and expenses may be considered by the Commission when establishing other rates for the public utilities subject to the Commission's jurisdiction. The magnitude of the changes will also be subject to the number of attachments which are affected and in existence. There is a dispute between pole attachment parties on the number of pole attachments which they have among themselves. Inventory taking is still occurring and disputes may be resolved before the Commission.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As noted under "Other persons" above, offsetting increases and decreases will occur. Some entities will see a reduction in revenues they receive from attaching entities, but will also see a reduction in their own expenses for the attachment costs they incur for their own attachments with other pole-owning entities. To the extent permitted by law, the Commission intends to consider the net affect of such changes when establishing rates for utilities operating within the Commission's jurisdiction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: State and federal law charge the Commission with regulating the terms by which attachments are made to the poles of utilities operating in Utah. Changes in the utility industry, increasing reliance upon and access demands for use of available attachment space, and the increasing magnitude of disputes concerning the entire attachment process have prompted the Commission to reexamine, with industry participation, a wide spectrum of issues relating to pole attachments. As is often the case for the Commission, promulgation of the rule requires balancing interests of various parties. The Commission has crafted a rule amendment which it believes is consistent with both state and federal law and sets terms which are conducive to the public interest and well being of the State of Utah and its citizens generally. Where permitted by law, the Commission will consider the specific fiscal impact, whether up or down, the rule will have on the operations of an individual public utility operating in Utah and subject to the Commission's ratemaking authority. Ric Campbell, Chairman

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
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:

Barbara Stroud at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at bstroud@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

**R746. Public Service Commission, Administration.
R746-345. Pole Attachments for Cable Television Companies.
R746-345-1. Authorization.**

A. Authorization of Rules -- Consistent with the Pole Attachment Act, 47 U.S.C. 224(c), and 54-3-1, 54-4-1, and [Section] 54-4-13, [provides that] the Public Service Commission shall have the power to regulate the rates, terms and conditions by which a public utility, as defined in 54-2-1(15)(a) including telephone corporations as defined in 54-2-23(a), can permit attachments to its poles by an attaching entity [can permit attachments to poles of the public utility by cable television companies].

B. Application of Rules -- These rules shall apply to each public utility that permits pole attachments to utility's poles by an attaching entity [cable television company].

1. Although specifically excluded from regulation by the Commission in 54-2-1(23)(b), solely for the purpose of any pole attachment, these rules apply to any wireless provider.

2. Pursuant to these rules, a public utility must allow any attaching entity nondiscriminatory access to utility poles at rates, terms and conditions that are just and reasonable.

C. Application of Rate Methodology -- The rate methodology described in Section R746-345-5 shall be used to determine rates that a public utility may charge an attaching entity to attach to its poles for compensation.

R746-345-2. General Definitions.

A. "Attaching Entity" -- A public utility, wireless provider, cable television company or other entity that attaches to a pole owned or controlled by a public utility, excluding those attachments used for signage and lighting.

B. "Distribution Pole" -- A utility pole, excluding towers, used by a pole owner to support mainly overhead distribution wires or cables.

C. "Pole Attachment" -- All equipment, and the devices used to attach the equipment, of an attaching entity within that attaching entity's allocated attachment space. A new or existing service wire drop pole attachment that is attached to the same pole as an existing attachment of the attaching entity is considered a component of the existing attachment for purposes of this rule. Additional equipment that meets all applicable code and contractual requirements that is placed within an attaching entity's existing attachment space is not an additional attachment for rental rate purposes.

D. "Attachment Space" -- The amount of usable space on a pole occupied by a pole attachment as provided for in Subsection R746-345-5(B)(3)(d).

E. "Pole Owner"-- A public utility having ownership or control of poles used, in whole or in part, for any electric or telecommunications services.

F. "Secondary Pole" -- A pole used solely to provide service wire drops, the aerial wires or cables connecting to a customer premise.

G. "Secondary Pole Attachment" -- A pole attachment to a secondary pole.

H. "Wireless Provider" -- A corporation, partnership, or firm that provides cellular, Personal Communications Systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. 332 that has been issued a covering license by the Federal Communications Commission.

R746-345-3. Tariffs and Contracts.

A. Tariff Filings and Standard Contracts -- A pole owner shall submit a tariff and standard contract, or a Statement of Generally Available Terms (SGAT), specifying the [Public utilities will file tariffs with the Commission which provide] rates, terms and conditions for any pole attachment, to the Commission for approval[by which cable television pole attachments are permitted].

1. A pole owner must petition the Commission for any changes or modifications to the rates, terms, or conditions of its tariff, standard contract or SGAT. A petition for change or modification must include a showing why the rate, term or condition is no longer just and reasonable. A change in rates, terms or conditions of an approved tariff, standard contract or SGAT will not become effective unless and until it has been approved by the Commission.

2. The tariff, standard contract or SGAT shall identify all rates, fees, and charges applicable to any pole attachment. The tariff, standard contract or SGAT shall set forth all non-recurring, standard charges for pole attachment work, including permitting, pre-construction surveys, inspections, and applicable processing. Other pole attachment work such as engineering, make-ready, and pole change-out shall also be identified in the tariff, standard contract or SGAT and billed on a time-and-materials basis for costs actually incurred and at rates or charges consistent with tariffs, standard contracts, or SGATs on file with the Commission. The tariff, standard contract, and SGAT shall also include but not be limited to:

a. permitting process, inspection process, joint audit process, including shared scheduling and costs, and any non-recurring fee or charge applicable thereto;

b. emergency access provisions; and

c. any back rent recovery or unauthorized pole attachment fee and any applicable procedures for determining the liability of an attaching entity to pay back rent or any non-recurring fee or charge applicable thereto.

B. Establishing the Pole Attachment Relationship -- The pole attachment relationship shall be established when the pole owner and the attaching entity have executed the approved standard contract, or SGAT, or other Commission-approved contract.

1. Exception -- The pole owner and attaching entity may voluntarily negotiate an alternative contract incorporating some, all, or none of the terms of the standard contract or SGAT. The parties shall submit the negotiated contract to the Commission for approval. In situations in which the pole owner and attaching entity are unable to agree following good faith negotiations, the pole owner or attaching entity may petition the Commission for resolution as provided in Section R746-345-6. Pending resolution by the Commission, the parties shall use the standard contract or SGAT.

C. Make Ready Work, Timeline and Cost Methodology -- As a part of the application process, the pole owner shall provide the applicant with an estimate of the cost of the make ready work required and the expected time to complete the make ready work as provided for in this sub-section.

1. For applications up to 20 poles, the pole owner shall respond with either an approval or a rejection within 45 days. At the same time as an approval is given, a completed make ready estimate must be provided to the applicant explaining what make ready work must be done, the cost of that work, and the time by which the work would be finished, that is no later than 120 days from receiving an initial deposit payment for the make ready work.

2. For applications that represent greater than 20 poles, but equal to or less than .5% of the pole owner's poles in Utah, the time for the pole owner's approval and make ready estimate shall be extended to 60 days, and the time for construction will remain at a maximum of 120 days.

3. For applications that represent greater than .5%, but equal to or less than 5% of the pole owner's poles in Utah, the time for the approval and make ready estimate shall be extended to 90 days, and the time for construction will be extended to 180 days.

4. For applications that represent greater than 5% of the pole owner's poles in Utah, the times for the above activities will be negotiated in good faith. The pole owner shall, within 20 days of the application, inform the applicant of the date by which the pole owner will have the make ready estimate and make ready construction time lines prepared for the applicant. If the applicant believes the pole owner is not acting in good faith, it may appeal to the Commission to either resolve the issue of when the make ready estimate and construction period information should be delivered or to arbitrate the negotiations.

5. If the pole owner rejects any application, the pole owner must state the specific reasons for doing so. Applicants may appeal to the Commission if they do not agree that the pole owners stated reasons are sufficient grounds for rejection.

6. For all approved applications, the applicant will either accept or reject the make ready estimate. If it accepts the make ready estimate and make ready construction time line, the work must be done by the pole owner on schedule and for the estimated make ready amount or less and applicant will be billed for actual charges up to the bid amount.

7. Applicants must pay 50% of the make ready estimate in advance of construction, and pay the remainder in two subsequent installment payments: an additional 25 percent payment when half of the work is done and the balance after the work is completed. Applicants may elect to pay the entire amount up front.

8. If the applicant rejects the make ready estimate, the applicant may, at its own expense use approved contractors to self-build the required make ready work subject to the pole owner's inspection.

R746-345-4. Pole Labeling.

A. Pole Labeling -- A pole owner must label poles to indicate ownership. A pole owner shall label any new pole installed, after the effective date of this rule, immediately upon installation. Poles installed prior to the effective date of this rule, shall be labeled at the time of routine maintenance, normal replacement, change-out, or relocation, and whenever practicable. Labels shall be based on a good faith assertion of ownership.

B. Pole Attachment Labeling -- An attaching entity must label its pole attachments to indicate ownership. Pole attachment labels may not be placed in a manner that could be interpreted to indicate an ownership of the utility pole. An attaching entity shall label any new pole attachment installed, after the effective date of this rule, immediately upon installation. Pole Attachments installed prior to the effective date of this rule shall be labeled at the time of routine maintenance, normal replacement, rearrangement, rebuilding, or reconstruction, and whenever practicable.

— B. Tariffs will not become effective without the prior approval of the Commission.

— C. When a utility uses a contract or agreement for execution of a pole attachment tariff and physical arrangements, that contract or agreement shall be directly referenced in the tariff. A copy of the general form of that contract or agreement will be provided to the Commission with the tariff filings. When a change is required to the content and form of a contract or agreement, where the change does not create a change to the tariff content, a revised copy of the contract or agreement will be filed with the Commission prior to the use or adoption by the public utility of the changed version.]

R746-345-5[3. Pole Attachment Rates] Rental Rate Formula and Methodology.

A. Basis -- The rental rate[s] for pole attachments, on average, must be sufficient to cover the recurring costs experienced by the pole owner as a result of the attachments. A [will be based on a] fair and reasonable method that will accomplish this objective is to use the portion of the pole owner's costs and expenses for the pole plant investment that is jointly used by the attaching entities as a proxy for the incremental costs. The rental rate for any pole attachment shall be based on the pole owner's investment in distribution poles. Any rate based on the rate formula in Subsection R746-345-5(B) shall be considered just and reasonable unless determined otherwise by the Commission [portion of the utility's costs and expenses for the pole plant, or type of pole plant, investment jointly used with cable television companies.

— B. The rates can include a fair and reasonable portion of a utility's common costs and expenses which may not be, or cannot be, directly assigned to the pole plant investments accounts.

— C. The Commission will allow a public utility and the cable television companies to first negotiate tariff rates that they jointly agree are fair and reasonable. If agreement cannot be reached, the considerations that the Commission will use to judge what is fair and reasonable will include, but not be limited to, the following:

- 1. prevailing rates of other similar utility providers in Utah;
- 2. the utility's investment in pole plant used for attachments;
- 3. utility investment exclusion adjustments for crossarms and appurtenances;

— 4. incremental or carrying costs factors of pole plant;

— 5. poles space allocations for utility use versus television cable use.]

B. Rate Formula -- A pole attachment rental rate shall be based on publicly filed data and must conform to the Federal Communications Commission's rules and regulations governing pole attachments, except as modified by this Section. A pole attachment rental rate shall be calculated and charged as an annual per attachment rental rate for each attachment space used by an attaching entity. The following formula and presumptions shall be used to establish pole attachment rates:

— 1. Formula:

Rate per attachment space = (Space Used x (1/Usable Space) x Cost of Bare Pole x Carrying Charge Rate)

— 2. Definitions:

— a. "Carrying Charge Rate" means the percentage of a pole owner's depreciation expense, administrative and general expenses, maintenance expenses, taxes, rate of return, pro-rated annualized costs for pole audits or other expenses that are attributable to the pole owner's investment and management of poles. Carrying charge factors, except for the cost of capital, can be calculated on either a net or gross investment basis.

— b. "Cost of Bare Pole" can be defined as either "net cost" or "gross cost." "Gross cost" means the original investment, purchase price, of poles and fixtures, excluding crossarms and appurtenances, divided by the number of poles represented in the investment amount. "Net cost" means the original investment, purchase price, of poles and fixtures, excluding crossarms and appurtenances, less depreciation reserve and deferred federal income taxes associated with the pole investment, divided by the number of poles represented in the investment amount. A pole owner may use gross cost only when its net cost is a negative balance. If using the net or gross cost results in an unfair or unreasonable outcome, a pole owner or attaching entity can seek relief from the Commission under R746-345-5 C.

— c. "Unusable Space" means the space on a utility pole below the usable space including the amount required to set the depth of the pole.

— d. "Usable Space" means the space on a utility pole above the minimum grade level to the top of the pole, which includes the space occupied by the pole owner.

— 3. Rebuttable presumptions:

— a. Average pole height equals 37.5 feet.

— b. Usable space per pole equals 13.5 feet.

— c. Unusable space per pole equals 24 feet.

— d. Space used by an attaching entity:

— (i) An electric pole attachment equals 7.5 feet;

— (ii) A telecommunications pole attachment equals 1.0 foot;

— (iii) A cable television pole attachment equals 1.0 foot; and

— (iv) An electric, cable, or telecommunications secondary pole attachment equals 1.0 foot.

— (v) A wireless provider's pole attachment equals not less than 1.0 foot and shall be determined by the amount of space on the pole that is rendered unusable for other uses, as a result of the attachment or the associated equipment. The space used by a wireless provider may be established as an average and included in the pole owner's tariff and standard contract, or SGAT, pursuant to Section R746-345-3 of this Rule.

— e. The space used by a wireless provider:

(i) may not include any of the length of a vertically placed cable, wire, conduit, antenna, or other facility unless the vertically placed cable, wire, conduit, antenna, or other facility prevents another attaching entity from placing a pole attachment in the usable space of the pole;

(ii) may not exceed the average pole height established in Subsection R746-345-5(B)(2)(a).

(iii) In situations in which the pole owner and wireless provider are unable to agree, following good faith negotiations, on the space used by the wireless provider as determined in Subsection R746-345-5(B)(3)(d)(v), the pole owner or wireless provider may petition the Commission to determine the footage of space used by the wireless provider as provided in Subsection R746-345-3(C).

f. The Commission shall recalculate the rental rate only when it deems necessary. Pole owners or attaching entities may petition the Commission to reexamine the rental rate.

4. A pole owner may not assess a fee or charge in addition to an annual pole attachment rental rate, including any non-recurring fee or charge described in Subsection R746-345-3(A)(2), for any cost included in the calculation of its annual pole attachment rental rate.

C. Commission Relief-- A pole owner or attaching entity may petition the Commission to review a pole attachment rental rate, rate formula, or rebuttable presumption as provided for in this rule. The petition must include a factual showing that a rental rate, rate formula or rebuttable presumption is unjust, unreasonable or otherwise inconsistent with the public interest.

R746-345-6. Dispute Resolution. ~~**4. Tariff Rate Changes.**~~

~~A. A public utility will not apply to the Commission for a change in a pole attachment rate as a part of a general company rate case.~~

~~B. A public utility will not apply for a change to the pole attachment rate prior to notifying the cable television companies then having attachments to the utility's poles. The rate change petition must provide a statement as to the cable television companies acceptance or rejection of the proposed change.~~

A. Mediation -- Except as otherwise precluded by law, a resolution of any dispute concerning any pole attachment agreement, negotiation, permit, audit, or billing may be pursued through mediation while reserving to the parties all rights to an adjudicative process before the Commission.

1. The parties may file their action with the Commission and request leave to pursue mediation any time before a hearing.

2. The choice of mediator and the apportionment of costs shall be determined by agreement of the parties. However, the parties may jointly request a mediator from the Commission or the Division of Public Utilities.

B. Settlement -- If the parties reach a mediated agreement or settlement, they will prepare and sign a written agreement and submit it to the Commission. Unless the agreement or settlement is contrary to law and this rule, R746-345, the Commission will approve the agreement or settlement and dismiss or cancel proceedings concerning the matters settled.

1. If the agreement or settlement does not resolve all of the issues, the parties shall prepare a stipulation that identifies the issues resolved and the issues that remain in dispute.

2. If any issues remain unresolved, the matter will be scheduled for a hearing before the Commission.

KEY: public utilities, rules and procedures, telecommunications, telephone utility regulation
[1988]2005
Notice of Continuation August 8, 2003
54-4-13

Public Service Commission, Administration **R746-349-9** Pricing Flexibility Revocation, Conditions, or Restrictions

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 28129
FILED: 08/05/2005, 13:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to establish the procedural process to be followed if pricing flexibility for a telecommunications corporation is to be revoked or limited pursuant to Subsection 54-8b-2.3(8).

SUMMARY OF THE RULE OR CHANGE: This new rule section identifies the type of information that should be provided to the Public Service Commission (PSC) to revoke or limit pricing flexibility authority of a telecommunications corporation. The rule outlines the procedural process the PSC will follow in considering whether to revoke or limit pricing flexibility and how proceeding participants will gain access to and how to treat information claimed to be confidential during the proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-4-1, 54-8b-2.3, and 63-46b-3

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--No state agency activities are created or eliminated beyond what already exists.
- ❖ **LOCAL GOVERNMENTS:** None--No local government activities are affected, as the rule addresses only the PSC's procedural process regarding the type of information to file with the PSC and treatment of information claimed to be confidential that is filed with that state agency.
- ❖ **OTHER PERSONS:** None--No individual actions/conduct is required or dictated beyond what already exists under Utah statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The rule sets forth the procedural process that will be followed for the agency's and public's application of the revocation or limitation of pricing flexibility authority.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Subsection 54-8b-2.3(8) provides that pricing flexibility for a telecommunications corporation may be revoked or limited by the Commission. The proposed rule section identifies the type of information and the procedural process the Commission desires to have and follow, should a request for revocation or limitation be pursued before the Commission. Ric Campbell, Chairman

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

PUBLIC SERVICE COMMISSION
ADMINISTRATION
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:

Barbara Stroud or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at bstroud@utah.gov or smooy@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Barbara Stroud, Paralegal

**R746. Public Service Commission, Administration.
R746-349. Competitive Entry and Reporting Requirements.
R746-349-9. Pricing Flexibility Revocation, Conditions, or Restrictions.**

A. The Commission may initiate, or the Division, the Committee, or any interested person may request agency action for the Commission to initiate, a proceeding to revoke or impose conditions or restrictions on a telecommunications corporation's pricing flexibility as authorized by section 54-8b-2.3(8).

1. A request to initiate any proceeding pursuant to this rule shall:

a. Identify the telecommunications corporation or corporations and the public telecommunications service or services whose pricing flexibility the requesting party believes may be subject to revocation or imposition of conditions or restrictions;

b. The basis for the belief; and

c. The relief sought.

2. A request to initiate a proceeding shall be served upon the telecommunications corporation or corporations the requesting party has identified in the request, the Division and the Committee.

3. The telecommunications corporation or corporations against whom the request is directed and any other interested party may respond to the request in accordance with the Commission's procedural rules and standard practices.

4. If a proceeding is initiated, an interested party may request to review confidential information retained by the Commission or the Division that is reasonably related to any potential grounds for

revocation, conditioning or restriction under section 54-8b-2.3(8). The party shall certify that it seeks to review that confidential information solely for purposes of determining whether a sufficient factual basis exists to and that the confidential information will not be used for any other purpose or disclosed to any persons who may be able to use the confidential information in business decisions to any party's competitive advantage. Prior to disclosing any confidential information, the Commission or the Division:

a. Shall require the requesting party to execute an appropriate nondisclosure agreement;

b. Shall notify any telecommunications corporation whose company-specific information would be disclosed of the request at least 14 calendar days before the planned date for disclosing such information; and

c. Shall not disclose the company-specific information of any telecommunications corporation that objects to disclosure of its confidential information, if such telecommunications corporation files with the Commission or Division and serves upon other parties an objection to the disclosure of such confidential information within 10 calendar days after receiving the notice required by 349-9.4.b. The Commission shall conduct a hearing at which the telecommunications corporation whose confidential information may be disclosed is given the opportunity to present its objections or request terms and conditions for disclosure and during which other parties may respond to the telecommunications corporation whose confidential information is sought to be disclosed.

5. In any proceeding conducted, the Commission will enter an appropriate protective order to ensure protection for confidential, proprietary, and competitively sensitive information that has been or is provided to the Commission, the Division, the Committee, or another party to the proceeding.

6. Nothing in this rule limits the ability of any party or the Commission to raise or address any issue in any other proceeding or as permitted by law.

KEY: essential facilities, imputation, public utilities, telecommunications

2005

Notice of Continuation March 13, 2002

54-7-25 through 28

54-8b-2

54-8b-3.3

63-46b



Tax Commission, Property Tax

R884-24P-33

**2005 Personal Property Guides and
Schedules Pursuant to Utah Code Ann.
Section 59-2-301**

NOTICE OF PROPOSED RULE

(Amendment)

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RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This is an annual update to the personal property guides and schedules for local valuation and assessment of business personal property and motor vehicles.

SUMMARY OF THE RULE OR CHANGE: Subsection 59-1-210(3) authorizes the State Tax Commission to promulgate rules that aid county officials in the performance of any duties relating to the assessment and equalization of property within the county. This amendment updates the numbers for 2006.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-301

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The amount of savings or cost to state government is undetermined. Tax revenue is distributed to local governments for assessing and collecting. Increase or decrease in 2006 tax revenue cannot be determined, even if there were no changes in the percent good tables, because taxpayer acquisitions and deletion of property during 2005 is unknown. The proposed personal property schedules in Section R884-24P-33 are raised, lowered, or remain the same for 2006 based on the type and age of the property assessed. Schedules for class 15, class 23, class 24, and class 27 are proposed with no changes for 2006 from 2005. Schedules used to value business personal property increase as much as 8 percentage points and decrease as much as 4 percentage points from the previous rule. Schedules used to value motor vehicles and recreational vehicles increase as much as 17 percentage points and decrease as much as 4 percentage points from the previous rule. The Legislature has removed recreational vehicles and non-commercial trailers from a value-based property tax, replacing the uniform fee with a schedule based on age. An additional 50% deduction for specified oil refinery pollution control equipment required under the federal Clean Air Act was added to class 8. The Clean Air Act requires the implementation of either the diesel regulations or the motor gasoline regulations by the end of 2006; the following year, the other (either diesel or motor gasoline) regulations must be implemented. Most of the fiscal impact of this addition to class 8 will occur at the local government level. In aggregate, for all personal property schedules it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the proposed schedule changes due to amendments to Section R884-24P-33.

❖ **LOCAL GOVERNMENTS:** The amount of saving or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property value. Increase or decrease in 2006 tax revenue cannot be determined, even if there were no changes in the percent good tables, because taxpayer acquisitions and deletions of property during 2005 is unknown. The proposed personal property schedules in Section R884-24P-33 are raised, lowered, or remain the same for 2006 based on the type and age of the property. Schedules for class 15, class 23, class 24, and class 27 are proposed with no changes for 2006 from 2005. Schedules used to value business personal property increase as much as 8 percentage points and

decrease as much as 4 percentage points from the previous rule. Schedules used to value motor vehicles and recreational vehicles increase as much as 17 percentage points and decrease as much as 4 percentage points from the previous rule. The Legislature has removed other recreational vehicles and non-commercial trailers from a value-based property tax, replacing the uniform fee with a schedule based on age. An additional 50% deduction for specified oil refinery pollution control equipment required under the federal Clean Air Act was added to class 8. The Clean Air Act requires the implementation of either the diesel regulations or the motor gasoline regulations by the end of 2006; the following year, the other (either diesel or motor gasoline) regulations must be implemented. It is estimated that the total Utah oil refinery 2-year investment would be \$620,000,000 with property tax revenue, after the additional 50% deduction, of \$4,600,000. This \$4,600,000 million would be additional revenue to Davis and Salt Lake Counties. In aggregate, for all personal property schedules it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the proposed schedule changes due to amendments to Section R884-24P-33.

❖ **OTHER PERSONS:** In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay taxes based on increased or decreased personal property value. The proposed personal property schedules in Rule 33 are raised, lowered, or remain the same for 2006 based on the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2006 property mix compared to the 2005 historical totals. However, in the absence of the adjustment to the class 8 schedule, property would be over taxed by \$4,600,000 due to the investments required by the federal Clean Air Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Local business owners and property tax practitioners will once again be required to be aware of new percent good figures. However, this is no different than previous years; therefore the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the owner's mix of property since some percent good schedules are increasing and others decreasing. For example, the owner of a heavy duty truck may see an increase in value since the 2005 proposed percent good schedule for this class increases by as much as 4 percentage points. The owner of a commercial trailer, however, may see an increase or a decrease, compared to the previous rule, depending on the model year of the trailer. The owner of an oil refinery will find that the value of oil refinery pollution control equipment required by the federal Clean Air Act will decrease by 50%.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As indicated above, the fiscal impact to businesses from changes in the proposed personal property schedules due to changes in Section R884-24P-33 will not be as significant as changes in the annual tax rate. Pam Hendrickson, Commission Chair

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Pam Hendrickson, Commission Chair

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-33. ~~2005~~2006 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

~~[A-](1)~~ Definitions.

~~[1-](a)~~ "Acquisition cost" means all costs required to put an item into service, including purchase price, freight and shipping costs; installation, engineering, erection or assembly costs; and excise and sales taxes.

~~[a-](i)~~ Indirect costs such as debugging, licensing fees and permits, insurance or security are not included in the acquisition cost.

~~[b-](ii)~~ Acquisition cost may correspond to the cost new for new property, or cost used for used property.

~~[2-](b)(i)~~ "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

~~[a-](ii)~~ Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

~~[3-](c)~~ "Cost new" means the actual cost of the property when purchased new.

~~[a-](i)~~ Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

~~[(4)](A)~~ documented actual cost of the new or used vehicle; or

~~[(2)](B)~~ recognized publications that provide a method for approximating cost new for new or used vehicles.

~~[b-](ii)~~ For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

~~[(4)](A)~~ class 6 heavy and medium duty trucks;

~~[(2)~~ class 9 off highway vehicles;

~~[(3)~~ class 11 street motorcycles;

~~[(4)](B)~~ class 13 heavy equipment;

~~[(5)](C)~~ class 14 motor homes;

~~[(6)](D)~~ class 17 ~~[boats]~~vessels equal to or greater than 31 feet in length;

~~[(7)~~ class 18 travel trailers/truck campers;

~~[(8)](E)~~ class 21 commercial ~~[and utility]~~ trailers; and

~~[(9)](F)~~ class 23 aircraft subject to the aircraft uniform fee and not listed in the aircraft bluebook price digest~~[-and]~~.

~~[(10)~~ class 26 personal watercraft.

~~[4-](d)~~ "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

~~[a-](i)~~ The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

~~[b-](ii)~~ Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as ~~[NADA]~~Primedia Price Digests.

~~[B-](2)~~ Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

~~[1-](a)~~ Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

~~[2-](b)~~ A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

~~[3-](c)~~ County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property.

When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

~~[4-](d)~~ A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

~~(3)~~ The provisions of this rule do not apply to:

~~(a)~~ a vehicle subject to the age-based uniform fee under Section 59-2-405.1;

~~(b)~~ the following personal property subject to the age-based uniform fee under Section 59-2-405.2:

~~(i)~~ an all-terrain vehicle;

~~(ii)~~ a camper;

~~(iii)~~ an other motorcycle;

~~(iv)~~ an other trailer;

~~(v)~~ a personal watercraft;

~~(vi)~~ a small motor vehicle;

~~(vii)~~ a snowmobile;

~~(viii)~~ a street motorcycle;

~~(ix)~~ a tent trailer;

~~(x)~~ a travel trailer; and

~~(xi)~~ a vessel, including an outboard motor of the vessel, that is less than 31 feet in length.

~~[C-](4)~~ Other taxable personal property that is not included in the listed classes includes:

~~[1-](a)~~ Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

~~[2-](b)~~ Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

~~3-~~(c) Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

~~D-~~(5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

~~E-~~(6) All taxable personal property, other than personal property subject to an age-based uniform fee under Section 59-2-405.1 or 59-2-405.2, is classified by expected economic life as follows:

~~F-~~(a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

~~a-~~(i) Examples of property in the class include:

- ~~1-~~(A) barricades/warning signs;
- ~~2-~~(B) library materials;
- ~~3-~~(C) patterns, jigs and dies;
- ~~4-~~(D) pots, pans, and utensils;
- ~~5-~~(E) canned computer software;
- ~~6-~~(F) hotel linen;
- ~~7-~~(G) wood and pallets;
- ~~8-~~(H) video tapes, compact discs, and DVDs; and
- ~~9-~~(I) uniforms.

~~b-~~(ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

~~e-~~(iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

- ~~1-~~(A) retail price of the canned computer software;
- ~~2-~~(B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or
- ~~3-~~(C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.

~~4-~~(iv) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
04 05	69% 67%
03 04	40% 41%
02 03 and prior	10%

~~2-~~(b) Class 2 - Computer Integrated Machinery.

~~a-~~(i) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

~~1-~~(A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

~~2-~~(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

~~3-~~(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.

~~4-~~(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

~~5-~~(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

~~b-~~(ii) Examples of property in this class include:

- ~~1-~~(A) CNC mills;
- ~~2-~~(B) CNC lathes;
- ~~3-~~(C) MRI equipment;
- ~~4-~~(D) CAT scanners; and
- ~~5-~~(E) mammography units.

~~e-~~(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
04 05	86% 83%
03 04	74% 73%
02 03	60% 61%
01 02	51% 53%
00 01	44%
99 00	35% 36%
98 99	25% 26%
97 98 and prior	16%

~~3-~~(c) Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

~~a-~~(i) Examples of property in this class include:

- ~~1-~~(A) office machines;
- ~~2-~~(B) alarm systems;
- ~~3-~~(C) shopping carts;
- ~~4-~~(D) ATM machines;
- ~~5-~~(E) small equipment rentals;
- ~~6-~~(F) rent-to-own merchandise;
- ~~7-~~(G) telephone equipment and systems;
- ~~8-~~(H) music systems;
- ~~9-~~(I) vending machines;
- ~~10-~~(J) video game machines; and
- ~~11-~~(K) cash registers and point of sale equipment.

~~b-~~(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
04 05	82% 79%
03 04	67% 68%
02 03	51% 52%
01 02	34% 35%
00 01 and prior	17% 18%

~~4-~~(d) Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

~~a-~~(i) Examples of property in this class include:

- ~~1-~~(A) furniture;
- ~~2-~~(B) bars and sinks;
- ~~3-~~(C) booths, tables and chairs;
- ~~4-~~(D) beauty and barber shop fixtures;
- ~~5-~~(E) cabinets and shelves;
- ~~6-~~(F) displays, cases and racks;
- ~~7-~~(G) office furniture;
- ~~8-~~(H) theater seats;

~~(9)~~(I) water slides; and
~~(10)~~(J) signs, mechanical and electrical.
~~(b)~~(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
(04) 05	(89%) 86%
(03) 04	(81%) 82%
(02) 03	(72%) 73%
(01) 02	(61%) 63%
(00) 01	(52%) 53%
(99) 00	(42%) 43%
(98) 99	(32%) 33%
(97) 98	(21%) 22%
(96) 97 and prior	11%

~~(5)~~(e) Class 6 - Heavy and Medium Duty Trucks.
~~(a)~~(i) Examples of property in this class include:
~~(1)~~(A) heavy duty trucks;
~~(2)~~(B) medium duty trucks;
~~(3)~~(C) crane trucks;
~~(4)~~(D) concrete pump trucks; and
~~(5)~~(E) trucks with well-boring rigs.
~~(b)~~(ii) Taxable value is calculated by applying the percent good factor against the cost new.
~~(e)~~(iii) Cost new of vehicles in this class is defined as follows:
~~(1)~~(A) the documented actual cost of the vehicle for new vehicles; or
~~(2)~~(B) 75 percent of the manufacturer's suggested retail price.
~~(4)~~(iv) For state assessed vehicles, cost new shall include the value of attached equipment.
~~(e)~~(v) The ~~(2005)~~2006 percent good applies to ~~(2005)~~2006 models purchased in ~~(2004)~~2005.
~~(4)~~(vi) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

Model Year	Percent Good of Cost New
(06) 06	90%
(04) 05	(73%) 77%
(03) 04	(67%) 71%
(02) 03	(61%) 65%
(01) 02	(55%) 59%
(00) 01	(49%) 53%
(99) 00	(43%) 47%
(98) 99	(37%) 40%
(97) 98	(31%) 34%
(96) 97	(25%) 28%
(95) 96	(19%) 22%
(94) 95	(13%) 16%
(93) 94	(7%) 10%
(92) 93 and prior	(5%) 4%

~~(6)~~(f) Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.
~~(a)~~(i) Examples of property in this class include:
~~(1)~~(A) medical and dental equipment and instruments;
~~(2)~~(B) exam tables and chairs;
~~(3)~~(C) high-tech hospital equipment;
~~(4)~~(D) microscopes; and

~~(5)~~(E) optical equipment.
~~(b)~~(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
(04) 05	(91%) 87%
(03) 04	(84%) 85%
(02) 03	(77%) 78%
(01) 02	(60%) 70%
(00) 01	(61%) 62%
(99) 00	(63%) 54%
(98) 99	(44%) 45%
(97) 98	36%
(96) 97	(27%) 28%
(95) 96	19%
(94) 95 and prior	10%

~~(7)~~(g) Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

~~(a)~~(i) Examples of property in this class include:
~~(1)~~(A) manufacturing machinery;
~~(2)~~(B) amusement rides;
~~(3)~~(C) bakery equipment;
~~(4)~~(D) distillery equipment;
~~(5)~~(E) refrigeration equipment;
~~(6)~~(F) laundry and dry cleaning equipment;
~~(7)~~(G) machine shop equipment;
~~(8)~~(H) processing equipment;
~~(9)~~(I) auto service and repair equipment;
~~(10)~~(J) mining equipment;
~~(11)~~(K) ski lift machinery;
~~(12)~~(L) printing equipment;
~~(13)~~(M) bottling or cannery equipment; ~~and~~
~~(14)~~(N) packaging equipment; ~~and~~
~~(O) pollution control equipment.~~

~~(b)~~(ii) ~~Taxable~~ Except as provided in Subsection (6)(g)(iii), taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

~~(iii)~~(A) Notwithstanding Subsection (6)(g)(ii), the taxable value of the following oil refinery pollution control equipment required by the federal Clean Air Act shall be calculated pursuant to Subsection (6)(g)(iii)(B):

- ~~(I) VGO (Vacuum Gas Oil) reactor;~~
- ~~(II) HDS (Diesel Hydrotreater) reactor;~~
- ~~(III) VGO compressor;~~
- ~~(IV) VGO furnace;~~
- ~~(V) VGO and HDS high pressure exchangers;~~
- ~~(VI) VGO, SRU (Sulfur Recovery Unit), SWS (Sour Water Stripper), and TGU; (Tail Gas Unit) low pressure exchangers;~~
- ~~(VII) VGO, amine, SWS, and HDS separators and drums;~~
- ~~(VIII) VGO and tank pumps;~~
- ~~(IX) TGU modules; and~~
- ~~(X) VGO tank and air coolers.~~

~~(B) The taxable value of the oil refinery pollution control equipment described in Subsection (6)(g)(iii)(A) shall be calculated by:~~

- ~~(I) applying the percent good factor in Table 8 against the acquisition cost of the property; and~~

(II) multiplying the product described in Subsection (6)(g)(iii)(B)(I) by 50%.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
[04] 05	[91%] 87%
[03] 04	[84%] 85%
[02] 03	[77%] 78%
[01] 02	[68%] 70%
[00] 01	[61%] 62%
[99] 00	[53%] 54%
[98] 99	[44%] 45%
[97] 98	36%
[96] 97	[27%] 28%
[95] 96	19%
[94] 95 and prior	10%

~~[8-](h) Class 9 - Off-Highway Vehicles.~~

~~(i) Because Section 59-2-405.2 subjects Class 9 property to an age-based uniform fee, a percent good schedule is not necessary for this class.~~

~~(a) Examples of property in this class include:~~

- ~~— (1) dirt and trail motorcycles;~~
- ~~— (2) all terrain vehicles;~~
- ~~— (3) golf carts; and~~
- ~~— (4) snowmobiles.~~
- ~~b) Taxable value is calculated by applying the percent good factor against the cost new.~~
- ~~c) The 2005 percent good applies to 2005 models purchased in 2004.~~
- ~~d) Off Highway Vehicles have a residual taxable value of \$500.~~

TABLE 9

Model Year	Percent Good of Cost New
05	90%
04	65%
03	61%
02	57%
01	53%
00	49%
99	45%
98	41%
97	37%
96	33%
95	29%
94	25%
93	21%
92 and prior	17%

~~9-](i) Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.~~

~~(a)(i) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.~~

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
[04] 05	92%
[03] 04	[87%] 89%

[02] 03	[82%] 83%
[01] 02	[75%] 77%
[00] 01	[69%] 70%
[99] 00	[63%] 65%
[98] 99	[56%] 58%
[97] 98	[50%] 51%
[96] 97	[43%] 44%
[95] 96	37%
[94] 95	31%
[93] 94	24%
[92] 93	16%
[91] 92 and prior	8%

~~[10-](j) Class 11 - Street Motorcycles.~~

~~(i) Because Section 59-2-405.2 subjects Class 11 property to an age-based uniform fee, a percent good schedule is not necessary for this class.~~

~~(a) Examples of property in this class include:~~

- ~~— (1) street motorcycles;~~
- ~~— (2) scooters;~~
- ~~— (3) mopeds; and~~
- ~~— (4) low speed electric vehicles.~~
- ~~b) Taxable value is calculated by applying the percent good factor against the cost new.~~
- ~~c) The 2005 percent good applies to 2005 models purchased in 2004.~~
- ~~d) Street motorcycles have a residual taxable value of \$500.~~

TABLE 11

Model Year	Percent Good of Cost New
05	90%
04	67%
03	65%
02	62%
01	59%
00	56%
99	54%
98	51%
97	48%
96	46%
95	43%
94	40%
93	37%
92	35%
91	32%
90	29%
89	27%
88 and prior	24%

~~11-](k) Class 12 - Computer Hardware.~~

~~(a)(i) Examples of property in this class include:~~

- ~~[(+)](A) data processing equipment;~~
- ~~[(2)](B) personal computers;~~
- ~~[(3)](C) main frame computers;~~
- ~~[(+)](D) computer equipment peripherals;~~
- ~~[(S)](E) cad/cam systems; and~~
- ~~[(6)](F) copiers.~~
- ~~(b)(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.~~

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
[04] 05	62%
[03] 04	46%
[02] 03	21%

[04]02 9%
 [00]01 and prior 7%

[12-](l) Class 13 - Heavy Equipment.

(a)(i) Examples of property in this class include:

- (1)(A) construction equipment;
- (2)(B) excavation equipment;
- (3)(C) loaders;
- (4)(D) batch plants;
- (5)(E) snow cats; and
- (6)(F) pavement sweepers.

(b)(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(e)(iii) [2005]2006 model equipment purchased in [2004]2005 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
[04]05	[53%]57%
[03]04	[50%]54%
[02]03	[47%]51%
[01]02	[44%]48%
[00]01	[41%]45%
[99]00	[38%]41%
[98]99	[35%]38%
[97]98	[32%]35%
[96]97	[29%]32%
[95]96	[26%]29%
[94]95	[24%]25%
[93]94	[21%]22%
[92]93	[18%]19%
[91]92 and prior	[15%]16%

[13-](m) Class 14 - Motor Homes.

(a)(i) Taxable value is calculated by applying the percent good against the cost new.

(b)(ii) The [2005]2006 percent good applies to [2005]2006 models purchased in [2004]2005.

(e)(iii) Motor homes have a residual taxable value of \$1,000.

TABLE 14

Model Year	Percent Good of Cost New
[05]06	90%
[04]05	[70%]69%
[03]04	[67%]66%
[02]03	[64%]63%
[01]02	[60%]59%
[00]01	[57%]56%
[99]00	[54%]53%
[98]99	[50%]49%
[97]98	[47%]46%
[96]97	[44%]43%
[95]96	[40%]39%
[94]95	[37%]36%
[93]94	[34%]33%
[92]93	[30%]29%
[91]92	[27%]26%
[90]91	[24%]23%
[89]90 and prior	[20%]19%

[14-](n) Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and

functional obsolescence due to rapidly changing technology and economic conditions.

(a)(i) Examples of property in this class include:

- (1)(A) crystal growing equipment;
- (2)(B) die assembly equipment;
- (3)(C) wire bonding equipment;
- (4)(D) encapsulation equipment;
- (5)(E) semiconductor test equipment;
- (6)(F) clean room equipment;
- (7)(G) chemical and gas systems related to semiconductor manufacturing;

(8)(H) deionized water systems;

(9)(I) electrical systems; and

(40)(J) photo mask and wafer manufacturing dedicated to semiconductor production.

(b)(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
[04]05	47%
[03]04	34%
[02]03	24%
[01]02	15%
[00]01 and prior	6%

[15-](o) Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

(a)(i) Examples of property in this class include:

- (1)(A) billboards;
- (2)(B) sign towers;
- (3)(C) radio towers;
- (4)(D) ski lift and tram towers;
- (5)(E) non-farm grain elevators; and
- (6)(F) bulk storage tanks.

(b)(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
[04]05	94%
[03]04	[91%]92%
[02]03	[87%]88%
[01]02	[82%]84%
[00]01	[78%]79%
[99]00	[74%]75%
[98]99	[69%]71%
[97]98	[64%]65%
[96]97	[60%]61%
[95]96	56%
[94]95	52%
[93]94	[47%]48%
[92]93	[42%]43%
[91]92	[36%]37%
[90]91	31%
[89]90	25%
[88]89	20%
[87]88	14%
[86]87 and prior	7%

[16-](p) Class 17 - ~~Boats~~Vessels Equal to or Greater Than 31 Feet in Length.

[a)](i) Examples of property in this class include:
 [~~4~~](A) [~~boats; and~~]houseboats equal to or greater than 31 feet in length;
 [~~2~~](B) [~~outboard boat motors.~~]sloops equal to or greater than 31 feet in length; and
 (C) yachts equal to or greater than 31 feet in length.
 (ii) A vessel, including an outboard motor of the vessel, under 31 feet in length:
 (A) is not included in Class 17;
 (B) may not be valued using Table 17; and
 (C) is subject to an age-based uniform fee under Section 59-2-405.2.

[~~b~~)](iii) Taxable value is calculated by applying the percent good factor against the cost new of the property.

[~~e~~)](iv) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

[~~+~~](A) the following publications or valuation methods:

[~~+~~](I) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

[~~+~~](II) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

[~~e~~)](III) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

[~~+~~](aa) the manufacturer's suggested retail price for comparable property; or

[~~+~~](bb) the cost new established for that property by a documented valuation source; or

[~~+~~](B) the documented actual cost of new or used property in this class.

[~~+~~](v) The [~~2005~~]2006 percent good applies to [~~2005~~]2006 models purchased in [~~2004~~]2005.

[~~e~~)](vi) [~~Boats~~]Property in this class [~~have~~]has a residual taxable value of [~~\$500~~]\$1,000.

TABLE 17

Model Year	Percent Good of Cost New
[05]06	90%
[04]05	[67%]72%
[03]04	[64%]70%
[02]03	[62%]67%
[01]02	[59%]65%
[00]01	[56%]63%
[99]00	[54%]61%
[98]99	[51%]59%
[97]98	[49%]57%
[96]97	[46%]54%
[95]96	[43%]52%
[94]95	[41%]50%
[93]94	[38%]48%
[92]93	[36%]46%
[91]92	[33%]43%
[90]91	[31%]41%
[89]90	[28%]39%
[88]89	[26%]37%
[87]88	[23%]35%
[86]87	[20%]32%
[85 and prior]86	[18%]30%
85 and prior	28%

[~~17~~](q) Class 18 - Travel Trailers/Truck Campers.

(i) Because Section 59-2-405.2 subjects Class 18 property to an age-based uniform fee, a percent good schedule is not necessary for this class.

[a) Examples of property in this class include:

(1) travel trailers;

(2) truck campers; and

(3) tent trailers.

b) Taxable value is calculated by applying the percent good factor against the cost new.

c) The 2005 percent good applies to 2005 models purchased in 2004.

d) Trailers and truck campers have a residual taxable value of \$500.

TABLE 18

Model Year	Percent Good of Cost New
05	90%
04	69%
03	66%
02	62%
01	59%
00	56%
99	52%
98	49%
97	46%
96	42%
95	39%
94	35%
93	32%
92	29%
91	25%
90	22%
89 and prior	19%

[~~18~~](r) Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

[~~+~~](i) Examples of property in this class include:

[~~+~~](A) oil and gas exploration equipment;

[~~+~~](B) distillation equipment;

[~~+~~](C) wellhead assemblies;

[~~+~~](D) holding and storage facilities;

[~~+~~](E) drill rigs;

[~~+~~](F) reinjection equipment;

[~~+~~](G) metering devices;

[~~+~~](H) cracking equipment;

[~~+~~](I) well-site generators, transformers, and power lines;

[~~+~~](J) equipment sheds;

[~~+~~](K) pumps;

[~~+~~](L) radio telemetry units; and

[~~+~~](M) support and control equipment.

[b)](ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
[04]05	92%
[03]04	[86%]90%
[02]03	[80%]82%
[01]02	[74%]76%
[00]01	[68%]69%
[99]00	[61%]62%
[98]99	[53%]55%
[97]98	47%
[96]97	[39%]40%

[96] 96	[32%] 33%
[94] 95	25%
[93] 94	17%
[92] 93 and prior	9%

[19-](s) Class 21 - Commercial ~~and Utility~~ Trailers.

(a)(i) Examples of property in this class include:

- (1)(A) ~~commercial~~ dry freight van trailers;
- (2)(B) ~~utility~~ refrigerated van trailers;
- (3)(C) ~~cargo utility~~ flat bed trailers;
- (4)(D) ~~boat~~ dump trailers;
- (5)(E) ~~converter gears~~ livestock trailers; and
- (6)(F) ~~horse and stock~~ tank trailers; and
- (7) all trailers not included in Class 18.

(b)(ii) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

(e)(iii) The ~~2005~~ 2006 percent good applies to ~~2005~~ 2006 models purchased in ~~2004~~ 2005.

(4) Commercial ~~and utility~~ trailers have a residual taxable value of ~~[\$500]~~ \$1,000.

TABLE 21

Model Year	Percent Good of Cost New
[06] 06	95%
[04] 05	[61%] 78%
[03] 04	[58%] 74%
[02] 03	[55%] 69%
[01] 02	[52%] 65%
[00] 01	[49%] 61%
[99] 00	[46%] 56%
[98] 99	[43%] 52%
[97] 98	[41%] 48%
[96] 97	[38%] 43%
[95] 96	[35%] 39%
[94] 95	[32%] 35%
[93] 94	[29%] 30%
[92] 93	26%
[91] 92	[23%] 22%
[90] 91	[20%] 18%
[89] 90 and prior	[17%] 13%

[20-](t) Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

a) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

b) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary for this class.

[21-](u) Class 23 - Aircraft Subject to the Aircraft Uniform Fee and Not Listed in the Aircraft Bluebook Price Digest.

(a)(i) Examples of property in this class include:

- (1)(A) kit-built aircraft;
- (2)(B) experimental aircraft;
- (3)(C) gliders;
- (4)(D) hot air balloons; and
- (5)(E) any other aircraft requiring FAA registration.

(b)(ii) Aircraft subject to the aircraft uniform fee, but not listed in the Aircraft Bluebook Price Digest, are valued by applying the percent good factor against the acquisition cost of the aircraft.

(e)(iii) Aircraft requiring Federal Aviation Agency registration and kept in Utah must be registered with the Motor Vehicle Division of the Tax Commission.

TABLE 23

Year of Acquisition	Percent Good of Acquisition Cost
[04] 05	75%
[03] 04	71%
[02] 03	67%
[01] 02	63%
[00] 01	59%
[99] 00	55%
[98] 99	51%
[97] 98	47%
[96] 97	43%
[95] 96	39%
[94] 95	35%
[93] 94 and prior	31%

[22-](v) Class 24 - Leasehold Improvements.

(a)(i) This class includes leasehold improvements to real property installed by a tenant. The Class 24 schedule is to be used only with leasehold improvements that are assessed to the lessee of the real property pursuant to Tax Commission rule R884-24P-32. Leasehold improvements include:

- (1)(A) walls and partitions;
- (2)(B) plumbing and roughed-in fixtures;
- (3)(C) floor coverings other than carpet;
- (4)(D) store fronts;
- (5)(E) decoration;
- (6)(F) wiring;
- (7)(G) suspended or acoustical ceilings;
- (8)(H) heating and cooling systems; and
- (9)(I) iron or millwork trim.

(b)(ii) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

(e)(iii) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[04] 05	94%
[03] 04	88%
[02] 03	82%
[01] 02	77%
[00] 01	71%
[99] 00	65%
[98] 99	59%
[97] 98	54%
[96] 97	48%
[95] 96	42%
[94] 95	36%
[93] 94 and prior	30%

[23-](w) Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

(a)(i) Examples of property in this class include:
(1)(A) aircraft parts manufacturing jigs and dies;

- ~~[(2)](B)~~ aircraft parts manufacturing molds;
- ~~[(3)](C)~~ aircraft parts manufacturing patterns;
- ~~[(4)](D)~~ aircraft parts manufacturing taps and gauges;
- ~~[(5)](E)~~ aircraft parts manufacturing test equipment; and
- ~~[(6)](F)~~ aircraft parts manufacturing fixtures.

~~[(b)](ii)~~ Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
[(04)]05	[(83%)]79%
[(03)]04	[(68%)]69%
[(02)]03	[(52%)]53%
[(01)]02	[(35%)]36%
[(00)]01	19%
[(99)]00 and prior	4%

~~[(24)](x)~~ Class 26 - Personal Watercraft.

~~(i)~~ Because Section 59-2-405.2 subjects Class 26 property to an age-based uniform fee, a percent good schedule is not necessary for this class.

~~(a)~~ Examples of property in this class include:

- ~~(1)~~ motorized personal watercraft; and
- ~~(2)~~ jet skis.

~~(b)~~ Taxable value is calculated by applying the percent good factor against the cost new.

~~(c)~~ The 2005 percent good applies to 2005 models purchased in 2004.

~~(d)~~ Personal watercraft have a residual taxable value of \$500.

TABLE 26

Model Year	Percent Good of Cost New
05	90%
04	64%
03	60%
02	56%
01	52%
00	48%
99	44%
98	39%
97	35%
96	31%
95	27%
94	23%
93	19%
92 and prior	15%

~~[(25)](y)~~ Class 27 - Electrical Power Generating Equipment and Fixtures

~~[(a)](i)~~ Examples of property in this class include:

- ~~[(4)](A)~~ electrical power generators; and
- ~~[(2)](B)~~ control equipment.

~~[(b)](ii)~~ Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
[(04)]05	97%
[(03)]04	95%
[(02)]03	92%

[(01)]02	90%
[(00)]01	87%
[(99)]00	84%
[(98)]99	82%
[(97)]98	79%
[(96)]97	77%
[(95)]96	74%
[(94)]95	71%
[(93)]94	69%
[(92)]93	66%
[(91)]92	64%
[(90)]91	61%
[(89)]90	58%
[(88)]89	56%
[(87)]88	53%
[(86)]87	51%
[(85)]86	48%
[(84)]85	45%
[(83)]84	43%
[(82)]83	40%
[(81)]82	38%
[(80)]81	35%
[(79)]80	32%
[(78)]79	30%
[(77)]78	27%
[(76)]77	25%
[(75)]76	22%
[(74)]75	19%
[(73)]74	17%
[(72)]73	14%
[(71)]72	12%
[(70)]71 and prior	9%

F. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, ~~[(2005)]2006~~.

KEY: taxation, personal property, property tax, appraisals
~~[(December 21, 2004)]2005~~
Notice of Continuation April 5, 2002
59-2-301



Transportation, Motor Carrier, Ports of Entry

R912-2

Mobile and Manufactured Homes

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 28147

FILED: 08/15/2005, 13:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed new rule is designed to identify requirements for the movement of mobile and manufactured homes on state roads.

SUMMARY OF THE RULE OR CHANGE: The rule establishes legal dimensions, vehicle standards, restrictions and permitting requirements for the movement of mobile and manufactured homes on state roads.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There may be some additional costs to the state due to administration of this program, i.e., delivery and receipt of permit applications, time spent answering questions about the program, training, and inspections. Since this program is new, an estimate of costs is impossible to know.

❖ **LOCAL GOVERNMENTS:** This rule will not affect local governments. Therefore, there is no cost to them.

❖ **OTHER PERSONS:** Mobile and manufactured home carriers will face increased costs, both from the direct fees and perhaps from having to change practices that will be required by the new rule. Training may also be a cost. Since this is a new program, costs to carriers are not known at this time. Also, the fee has not yet been set by the Legislature.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Mobile and manufactured home carriers will face increased costs, both from the direct fees and perhaps from having to change practices that will be required by the new rule. Training may also be a cost. Since this is a new program, costs to carriers are not known at this time. Also, the fee has not yet been set by the Legislature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department has a statutory duty to protect the public by regulating mobile and manufactured home carriers. The new rules attempt to do that while keeping costs as low as possible. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports of Entry.**R912-2. Mobile and Manufactured Homes.****R912-2-1. Authority.**

This rule is enacted under the authority of Section 72-7-401 through 72-7-409.

R912-2-2. Legal Dimensions. No Permit Required.

(1) Width: 8 feet 6 inches.

(a) Measured horizontally and at right angles to longitudinal center line between two vertical points established at the outside of any protuberance on the mobile/manufactured home. Safety appurtenances such as binder chains, clearance lights, rub rails, and load securing devices, may extend up to 3 inches beyond the prescribed width on either side.

(2) Height: 14 feet.

(a) Measured vertically from level road surface top highest point of mobile/manufactured home when hitched to tow vehicle and ready for the road or loaded on semi-trailer ready for the road.

(3) Length:

(a) 45 feet. Single unit only.

(i) Measured horizontally along the longitudinal centerline from the top trailer hitch to a right-angled vertical plane established to reference the rearmost protuberance on the mobile/manufactured home, or semi-trailer lowboy.

(b) 65 feet. Combination of unit and tow vehicle.

(i) Trailer-tow combination or truck-trail and semi-trailer lowboy, measured horizontally along the longitudinal centerline from the front bumper of the tow vehicle to a right-angle vertical plane at the rearmost protuberance on the mobile/manufactured home, or semi-trailer lowboy.

R912-2-3. Measuring Homes Exceeding 14 Feet 6 Inches.

(1) When the legal dimensions are exceeded, an oversize permit is required.

(2) Mobile and manufactured homes with eaves greater than 12 inches shall be measured for overall width including eaves and pilot/escort vehicles assigned as specified in R912-9-13.

R912-2-4. Mobile/Manufactured Homes Exceeding 14 Feet 6 Inches.

(1) Mobile/manufactured homes exceeding 14 feet 6 inches up to 16 feet in wall-to-wall width, transported on their own running gear, may be issued a single trip permit under the following conditions:

(a) All tires shall be in compliance with the manufacture's tire load rating as indicated on the tire sidewall in accordance with 49 CFR 393.75(g)(1)(2).

(b) Axle/suspensions shall not exceed manufacture's capacity rating.

(c) All trailer axles shall be equipped with operational brakes.

(d) Mobile homes in excess of 16 feet wall-to-wall width may be permitted on a case-by-case basis however, prior authorization must be received by contacting the Motor Carrier Division at (801) 964-4588 or (801) 965-4508.

R912-2-5. Permit Provisions.

(1) Mobile/manufactured homes to be moved on semi-trailer lowboys may be permitted.

(2) For loads originating with Utah, a copy of the Tax Commission Movable Structure Tax Clearance/Moving Permit (TC-138) must be:

(a) Affixed to the rear end of the mobile/manufactured home or moveable structure, and

(b) Be visible to any enforcement officer or agent.

(3) Proof of obtaining a TC-138 permit must be submitted to the Department at the time of application for an Oversize Special Transportation Permit.

(4) The oversize load permit will not be issued without proof of a TC-138 permit as specified in 41-1a-1320.

R912-2-6. Axle and Tire Requirements.

Mobile/manufactured home units see Tables I and II below for axle and tire requirements.

TABLE I

Axle and Tire Requirements

Width of Home	Length of Home	Number of Rated Axles	Minimum Standards of Mobile/Manufactured Home Rated Tires
12 feet wide	To 60 feet	2 axles	7 x 14.5 / 8 ply
	Greater than 60 feet to 80 feet	3 axles	7 x 14.5 / 8 ply
14 feet wide	To 52 feet	2 axles	7 x 14.5 / 8 ply
	To 72 feet	3 axles	7 x 14.5 / 8 ply
	To 80 feet	4 axles	7 x 14.5 / 8 ply

TABLE II

Axle and Tire Requirements

Width of Home	Length of Home	Number of Rated Axles	Minimum Standards of Mobile/Manufactured Home Rated Tires
12 feet wide	To 65 feet	2 axles	8 x 14.5 / 8 ply
	Greater than 65 feet to 80 feet	3 axles	8 x 14.5 / 8 ply
14 feet wide	To 56 feet	2 axles	8 x 14.5 / 8 ply
	Greater than 56 feet to 80 feet	3 axles	8 x 14.5 / 8 ply

R912-2-7. Tow Vehicles.

(1) Tow vehicles shall comply with the following minimum requirements outlined in Table III:

TABLE III

Tow Vehicle Requirements

Width of Vehicle to be towed	Tire Width	Drive Axle Tire Requirement	GVWR	Weight	Rear Axle Rating
Over 8' to 10'	7.00"	6-ply	N/A	6,000 lbs	N/A
Over 10' to 12'	8.00"	8-ply	35,000 GVW	8,000 lbs	15,000 lbs
Over 12' to 14.6"	8.25"	10-ply	35,000 GVW	9,000 lbs	15,000 lbs

(2) Conventional or cab-forward configuration shall have a minimum wheelbase of 120 inches.

(3) Cab-over engine tow vehicles shall have minimum wheelbase of 89 inches.

(4) Have a minimum of four rear tires.

(5) Certified pilot/escort vehicles must have two-way communication capabilities in accordance with R912-9 Pilot/Escort Requirements and Certification Program.

R912-2-8. Trailer Brakes.

(1) Trailer in excess of 8 feet 6 inches wide, up to 12 feet wide and equipped with one axle, must have operational brakes on each wheel.

(2) A minimum of two axles equipped with operative brake assemblies is required on each mobile/manufactured home unit in excess of 12 feet wide.

R912-2-9. Movement Requirements.

(1) In addition to permit provisions as specified, mobile/manufactured homes will observe the following additional requirements:

(a) Emergency Stops.

(i) When a mobile/manufactured home must stop because of emergency conditions, it shall be moved as far right as practicable away from highway traffic.

(ii) If any part of the combination is less than 3 feet from the right-hand edge of the nearest traffic lane, reflective triangles as outlined under 49 CFR 393.95(h) shall be posted at 100 feet and 300 feet behind the vehicle to warn oncoming traffic.

(iii) When an emergency dictates night parking next to the highway, an amber flashing light (minimum diameter 4 inches) shall be placed on the corner of the trailer closest to the road so as to be clearly visible to approaching traffic.

(iv) The height of the light shall not be less than 3 feet above the surface of the highway and not more than 8 feet above the height of the mobile/manufactured home.

(b) Stop and Turn Signals.

(i) Rear mounted stop and turn signal lights shall be minimum 6 inches in diameter with 35 red reflector type lens.

(ii) The lens shall be mounted not more than 18 inches from the outer edge of the unit and not less than 15 inches nor more than 72 inches above the road surface.

(c) Load Securement Requirements.

(i) A minimum of four 3/4 inch diameter bolts will be used to directly connect the main support members of the modular home to the support frame of moving equipment.

(ii) Each of the four bolts shall be at least 4 feet apart.

(iii) Two bolts each shall be located not less than 12 feet from the forward and rear ends of the modular home.

(iv) Equivalent methods of fastening may be accepted provided fastening is not accomplished with clamps that rely on friction contact between the modular home and the moving equipment.

(d) Safety Chains.

(i) Two safety chains shall be used, one each on right and left sides of (but separate from) the coupling mechanism connecting the tow vehicle and the modular home while in transit.

(ii) Chains shall be 3/8 inch in diameter steel capable of passing a minimum brake test load of 16,200 pounds. Chains shall be strongly fastened at each end to connect the tow vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle.

(iii) When the mobile/manufactured home is transported on a semi-trailer lowboy coupled to the tow vehicles with a fifth wheel and kingpin assembly the two safety chains are not required.

(e) Paneling of the open sides of mobile/manufactured home.

(i) Rigid material or 0.5 millimeter plastic sheathing backed by a rigid grillwork not exceeding squares of 4 feet to prevent billowing must fully enclose the open sides of units in transit.

KEY: permitted vehicles, mobile and manufactured homes

- 2005
- 72-7-401
- 72-7-402
- 72-7-403
- 72-7-404
- 72-7-405
- 72-7-406
- 72-7-407
- 72-7-408
- 72-7-409



Transportation, Motor Carrier, Ports of
Entry
R912-76
Single Tire Configuration

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 28149
FILED: 08/15/2005, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule updates existing language to clarify the use of single tires.

SUMMARY OF THE RULE OR CHANGE: The amendment clarifies the use of narrow single tires less than 14 inches wide. All axles having a weight in excess of 10,000 pounds shall be equipped with four tires per axle, or wide base single tires (14 inches wide or greater) as indicated by the manufacturer's sidewall rating. The rule change allows for an exemption: 14 inch wide single tire requirement does not apply to steering axles, or self-steering VLS (variable load suspension) retractable axles.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-9-101

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There may be some additional costs incurred if state inspections result in citations for failure to comply with the new requirement. This would result in increases in administrative costs. Since this is a new program, however, it is impossible to say what the increased costs will be, if any.
- ❖ LOCAL GOVERNMENTS: The state does not regulate local government motor carriers in this area. Therefore, this rule will not impose any costs on local governments.
- ❖ OTHER PERSONS: There may be some costs associated when a motor carrier discontinues using single tires or single axles.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some costs to the industry if vehicles are not equipped with four tires or side base single tires (14 inches or greater) per axles having a weight in excess of 10,000 pounds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department believes these changes are necessary to improve the safety of the public, which is this agency's primary mission in the regulation of motor carriers. The costs will be very small, and perhaps nonexistent, and outweighed by safety improvements. John R. Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
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@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: John R. Njord, Executive Director

**R912. Transportation, Motor Carrier, Ports of Entry.
R912-76. Single Tire Configuration.**

R912-76-1. Purpose.

~~—The use of single tires on heavy vehicles has been indicated to be one of the factors damaging to pavements, in the form of increased fatigue and rutting. Rutting has been shown to have increased dramatically in recent years. Significant pavement rutting can result in an unsafe condition to the traveling public, and is very costly to correct, the Transportation Commission finds it in the best interest of the safety and convenience of the traveling public to limit and discourage the use of single tires in Utah.~~

R912-76-2. Authority.

~~—Sections 72-1-102, 72-7-404, 72-7-406, 72-1-201.~~

R912-76-3. Provisions.

~~—1. Tire loading on vehicles requiring an overweight or oversize permit shall not exceed 500 pounds per inch of tire width for tires eleven inches wide and greater, and 450 pounds per inch of tire width for tires less than eleven inches wide, as designated by the tire manufacturer on the side wall of the tire. Single axle loading shall not exceed 20,000 pounds, and tandem axle loading shall not exceed 34,000 pounds.~~

— 2. The use of single tires on any combination vehicle requiring an overweight or oversize permit shall not be allowed on single axles. A single axle is defined as one having more than eight feet between it and the nearest axle or group of axles on the vehicle.

— 3. Tire loading on permitted vehicles shall not exceed 600 pounds per inch of tire width as designated by the tire manufacturer on the sidewall.

— D. Non-divisible loads may be exempt from these restrictions upon written approval from the Department.

— E. No wheel on steering or castering axles shall exceed 600 pounds per inch of tire width.

— F. In no case shall any tire loading exceed the tire manufacturer maximum load rating (existing Federal requirement).

— G. Studies presently underway on the safety and pavement damage done by single tires may lead to modifications to this rule in the near future. This may lead to the total elimination or expanded use of single tires on other than steering or castering axles.]

R912-76-1. Purpose.

The use of single tires on heavy vehicles has been indicated to be one of the factors damaging to pavements, in the form of increased fatigue and rutting. Significant pavement rutting can result in an unsafe condition to the traveling public, and is very costly to correct, the Utah Department of Transportation finds it in the best interest of the safety and convenience of the traveling public to limit and discourage the use of single tires in Utah.

R912-76-2. Authority.

Sections 72-1-102, 72-7-404, 72-7-406, 72-1-201.

R912-76-3. Tire Specifications for Overweight or Oversize Permitted Vehicles.

(1) The use of narrow single tires (less than 14 inches wide) on any combination vehicle requiring an overweight or oversize permit shall not be allowed on single axles, except for steering axles, including self steering VLS, or retractable axles, or wide base tires (14 inches or greater). All axles having a weight in excess of 10,000 lbs shall be equipped with four tires per axles, or wide base single tires (14 inches wide or greater as indicated by the manufacturer's sidewall rating).

(a) Exemption: 14 inch wide single tire requirement does not apply to steering axles, or self-steering VLS retractable axles.

(2) No tire shall exceed the manufacturer's tire rating as indicated on the sidewall.

(3) For Non-permitted/legal vehicles no tire shall exceed 600 per inch of tire width as indicated on the sidewall.

(4) Tire loading on vehicles requiring an overweight or oversize permit shall not exceed 500 pounds per inch of tire width for tires eleven inches wide and greater.

(5) Tire loading on vehicles requiring an overweight or oversize permit shall not exceed 450 pounds per inch of tire width for tires less than eleven inches wide, as designated by the tire manufacturer on the side wall of the tire.

(6) Except as provided in R912-76-3-1, single axle loading shall not exceed 20,000 pounds, and tandem axle loading shall not exceed 34,000 pounds.

(7) Non-divisible loads may be exempt from these restrictions upon written approval from the Department.

KEY: tires

[1993]2005

Notice of Continuation September 28, 2002

72-1-102

72-7-404

72-7-406

72-1-201

Workforce Services, Employment Development **R986-200** Family Employment Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28134

FILED: 08/09/2005, 14:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify changes made in the June 15, 2005, Bulletin. (DAR NOTE: The earlier proposed amendment to Rule R986-200 was published in the June 15, 2005, issue of the Bulletin under DAR No. 27957, and was made effective 08/01/2005.)

SUMMARY OF THE RULE OR CHANGE: The Department changed the participation requirement from "maximum extent possible" to a requirement of 34 hours in certain activities effective 08/01/2005. That rule amendment might not have been as clear as was intended. This amendment now clarifies that all 34 hours must be in eligible activities and 24 of the hours must be in priority activities. The previous amendment may have implied that all 34 hours had to be in priority activities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104; and Subsections 35A-1-104(4) and 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: This rule does not apply to local government, therefore, there are no costs or savings to local governments. Local governments do not contribute to the costs of this program.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program because it is federally funded. Some individuals receiving assistance through this program may be required to participate for more hours per week.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program because it is federally funded. The additional hours of participation will not cost participants.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. It will not cost anyone any sum to comply with these changes. Tani Downing, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@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 10/03/2005.

THIS RULE MAY BECOME EFFECTIVE ON: 10/04/2005

AUTHORIZED BY: Tani Downing, Executive Director

**R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-210. Requirements of an Employment Plan.**

(1) Within 15 business days of completion of the assessment, the following individuals in the household assistance unit are required to sign and make a good faith effort to participate to the maximum extent possible in a negotiated employment plan:

(a) All parents, including parents whose income and assets are included in determining eligibility of the household but have been determined to be ineligible or disqualified from being included in the financial assistance payment.

(b) Dependent minor children who are at least 16 years old, who are not parents, unless they are full-time students or are employed an average of 30 hours a week or more.

(2) The goal of the employment plan is obtaining marketable employment and it must contain the soonest possible target date for entry into employment consistent with the employability of the individual.

(3) An employment plan consists of activities designed to help an individual become employed. For each activity there will be:

- (a) an expected outcome;
- (b) an anticipated completion date;
- (c) the number of participation hours agreed upon per week;

and

(d) a definition of what will constitute satisfactory progress for the activity.

(4) Each activity must be directed toward the goal of increasing the household's income.

(5) Activities may require that the client:

(a) obtain immediate employment. If so, the parent client shall:

- (i) promptly register for work and commence a search for employment for a specified number of hours each week; and
- (ii) regularly submit a report to the Department on:
 - (A) how much time was spent in job search activities;
 - (B) the number of job applications completed;
 - (C) the interviews attended;
 - (D) the offers of employment extended; and
 - (E) other related information required by the Department.

(b) participate in an educational program to obtain a high school diploma or its equivalent, if the parent client does not have a high school diploma;

(c) obtain education or training necessary to obtain employment;

(d) obtain medical, mental health, or substance abuse treatment;

(e) resolve transportation and child care needs;

(f) relocate from a rural area which would require a round trip commute in excess of two hours in order to find employment;

(g) resolve any other barriers identified as preventing or limiting the ability of the client to obtain employment, and/or

(h) participate in rehabilitative services as prescribed by the State Office of Rehabilitation.

(6) The client must meet the performance expectations of each activity in the employment plan in order to stay eligible for financial assistance.

(7) The client must cooperate with the Department's efforts to monitor and evaluate the client's activities and progress under the employment plan, which includes providing the Department with a release of information, if necessary to facilitate the Department's monitoring of compliance.

(8) Where available, supportive services will be provided as needed for each activity.

(9) The client agrees, as part of the employment plan, to cooperate with other agencies, or with individuals or companies under contract with the Department, as outlined in the employment plan.

(10) An employment plan may, at the discretion of the Department, be amended to reflect new information or changed circumstances.

(11) The number of hours of participation in subsection (3)(c) of this section will not be lower than 34 hours per week. All 34 hours must be in eligible activities. 24 of those 34 hours must be in priority activities. A list of approved priority and eligible activities is available at each employment center.

(12) In the event a client has barriers which prevent the client from 34 hours of participation per week, or 24 hours in priority activities, a lower number of hours of participation can be approved if:

(a) the Department identifies and documents the barriers which prevent the client from full participation; and

(b) the client agrees to participate to the maximum extent possible to resolve the barriers which prevent the client from participating.

R986-200-240. Additional Payments Available Under Certain Circumstances.

(1) Each parent eligible for financial assistance in the FEP or FEPTP programs who takes part in at least one enhanced participation activity may be eligible to receive \$40 each month in addition to the standard financial assistance payment. Enhanced participation activities are limited to:

(a) work experience sites of at least 24 hours a week and other ~~priority~~eligible activities that together total 34 hours per week;

(b) full-time attendance in an education or employment training program; or

(c) employment of 24 hours or more a week and other ~~priority~~eligible activities that together total 34 hours per week.

(2) An additional payment of \$15 per month for a pregnant woman in the third month prior to the expected month of delivery. Eligibility for the allowance begins in the month the woman

provides medical proof that she is in the third month prior to the expected month of delivery. The pregnancy allowance ends at the end of the month the pregnancy ends.

(3) A limited number of funds are available to individuals for work and training expenses. The funds can only be used to alleviate circumstances which impede the individual's ability to begin or continue employment, job search, training, or education. The payment of these funds is completely discretionary by the Department. The individual does not need to meet any eligibility requirements to request or receive these funds.

(4) Limited funds are available, up to a maximum of \$300, to pay for burial costs if the individual is not entitled to a burial paid for by the county.

KEY: family employment program

[August 1, 2005

35A-3-301 et seq.



End of the Notices of Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

Labor Commission, Antidiscrimination and Labor, Fair Housing **R608-1-8** Response to Complaint

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 28126
FILED: 08/02/2005, 14:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to conform Utah Fair Housing procedures with federal requirements. Specifically, this amendment changes the period allowed for filing a response to a Fair Housing complaint from 20 days to 10 days.

SUMMARY OF THE RULE OR CHANGE: The only change made by this amendment to Subsection R608-1-8(A) is to reduce from 20 days to 10 days the time allowed for filing a response to a Fair Housing complaint. (DAR NOTE: A corresponding proposed amendment is under DAR No. 28127 in this issue.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 57-21-9(2)(a)(ii)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This amendment will not produce either a cost or savings in the administration of the Fair Housing program and will have no effect on the state budget.
- ❖ **LOCAL GOVERNMENTS:** This rule will apply to some local government entities in their role as housing providers. Under the existing rule, a respondent to a Fair Housing complaint is required to file a response within 20 days. Under the amended rule, the response must be filed within 10 days. In

all other respects, the response requirement remains the same. Consequently, the Commission anticipates no cost or savings to local government.

❖ **OTHER PERSONS:** This rule will apply to landlords and others engaged in housing-related services. Under the existing rule, a respondent to a Fair Housing complaint is required to file a response within 20 days. Under the amended rule, the response must be filed within 10 days. In all other respects, the response requirement remains the same. Consequently, the Commission anticipates no cost or savings to other persons subject to this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule imposes no new requirements but only changes the timing of existing requirements. The Commission anticipates no additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: While this amendment shortens the response period in Fair Housing proceedings, it does not impose any other procedural or substantive requirements. Businesses that have been subject to the response requirement in Subsection R608-1-8(A) in the past can continue to submit the same types of response in the future. This amendment's change to the timing of such responses is not anticipated to have any fiscal impact on business. R. Lee Ellertson, Commissioner

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements. place the agency in violation of federal or state law.

Subsection 57-21-9(2)(a) of the Utah Fair Housing Act requires the Commission to "adopt rules consistent with the provisions of 24 C.F.R. Sec. 115.3(1990), relating to procedures under related federal law, to govern...the form of

any answer...." Furthermore, the federal Department of Housing and Urban Development (H.U.D.) provides substantial funding of Utah's Fair Housing program, provided that Utah's program is consistent with the procedural and substantive requirements of federal Fair Housing law. A recent performance audit of Utah's Fair Housing Program by H.U.D. disclosed that the 20-day response period allowed under the current version of Subsection R608-1-8(A) is inconsistent with the 10-day response period established by federal law. Thus, unless this part of Subsection R608-1-8(A) is amended to conform to federal law, the rule will violate the mandate of state law found in Subsection 57-21-9(2)(a) of the Utah Fair Housing Act and could result in loss of federal funds.

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, FAIR HOUSING
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:
Sherrie M. Hayashi at the above address, by phone at 801-530-6921, by FAX at 801-530-7609, or by Internet E-mail at shayashi@utah.gov

THIS RULE IS EFFECTIVE ON: 08/02/2005

AUTHORIZED BY: R Lee Ellertson, Commissioner

R608. Labor Commission, Antidiscrimination and Labor, Fair Housing.

R608-1. Utah Fair Housing Rules.

R608-1-8. Response to Complaint.

A. A respondent shall file a signed response to the complaint with the Division within ~~[20]~~10 days from the date of the notice required by R608-1-7.B.

B. The response must address each allegation contained in the complaint, including any available and relevant data and information regarding respondent's business practices.

C. Division staff shall be available during normal business hours to provide reasonable assistance to respondents in completing and filing responses.

D. Failure to file a response may result in the Division concluding its investigation based on information provided by the complainant and such other information as is reasonably available to the Division. Alternatively, the Commission may use its subpoena powers to compel production of the information required by this rule.

KEY: housing, fair housing, discrimination, time

August 2, 2005

Notice of Continuation January 2, 2002

57-21-1 et seq.

63-46b-1 et seq.



End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Education, Administration **R277-107** Educational Services Outside of Educator's Regular Employment

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28140
FILED: 08/15/2005, 11:10

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 53A-1-402.5 directs the State Board of Education to make rules that establish basic ethical conduct standards for employees who provide public education-related services or activities outside of their regular employment.

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 have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because state law requires the State Board of Education have a rule in place, and because the rule provides necessary standards and guidance for school districts to use in establishing district policies and for educators to use when providing public education-related services or activities outside of the educator's regular employment. Without this rule, there could be undue influence on parents and students who have specific teachers who offer education-related services.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 08/15/2005



Education, Administration **R277-474** School Instruction and Human Sexuality

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28141
FILED: 08/15/2005, 11:10

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 53A-13-101(1)(c)(ii)(B) directs the State Board of Education to develop a rule that provides for local school boards to adopt State Board of Education recommended instructional materials or other instructional materials provided for in 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 written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because state law provides that the State Board of Education have a rule in place, and because it is important to have a rule that provides general provisions and procedures for designation of State Board, school district, and individual educator responsibilities when providing instruction in human sexuality.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 08/15/2005



Education, Administration
R277-475
 Patriotic Education

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR File No.: 28142
 FILED: 08/15/2005, 11:11

**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 53A-13-101.6 directs the State Board of Education to provide a rule for a program of instruction within the public schools relating to the flag of the United States.

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 have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because state law requires the State Board of Education have a rule in place, and because the rule provides for subject matter and methods to use in student instruction relating to the flag of the United States.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 08/15/2005



Education, Administration
R277-476
 Incentives for Elementary Reading
 Program

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR File No.: 28143
 FILED: 08/15/2005, 11:11

**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 53A-3-402.11(4) directs the State Board of Education to provide a rule for the application procedures for the Scholarship and to identify what constitutes a reading endorsement at the elementary school (K-6) level.

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 have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule because state law requires the State Board of Education have a rule in place, and because the rule provides necessary procedures regarding the application process and distribution of scholarship funds.

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 08/15/2005



Transportation, Motor Carrier, Ports of
 Entry
R912-16
 Special Mobile Equipment

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 28150
 FILED: 08/15/2005, 14:32

**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 rule was enacted under Sections 41-1a-231, 72-9-201, and 72-1-201 that give the Department authority to issue rules for the regulation of motor carriers.

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 have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department's authority to issue rules for motor carrier safety has not changed and this rule continues to fulfill that role as regards to special equipment. Therefore, this rule should be continued.

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

TRANSPORTATION
 MOTOR CARRIER, PORTS OF ENTRY
 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@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 08/15/2005



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

Commerce

Occupational and Professional Licensing
No. 27993 (AMD): R156-16a-302b. Qualifications for Licensure - Examination Requirements.
Published: July 1, 2005
Effective: August 2, 2005

No. 27992 (AMD): R156-31b. Nurse Practice Act Rules.
Published: July 1, 2005
Effective: August 2, 2005

No. 27987 (AMD): R156-38. Residence Lien Restriction and Lien Recovery Fund Rules.
Published: July 1, 2005
Effective: August 2, 2005

Real Estate

No. 27943 (AMD): R162-202. Initial Application.
Published: June 15, 2005
Effective: August 3, 2005

No. 27945 (AMD): R162-208. Continuing Education.
Published: June 15, 2005
Effective: August 3, 2005

Environmental Quality

Radiation Control
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Published: July 1, 2005
Effective: August 12, 2005

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Published: June 1, 2005
Effective: August 5, 2005

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No. 27982 (AMD): R512-306. Independent Living Services, Education and Training Voucher Program.
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Published: June 15, 2005
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Published: July 1, 2005
Effective: August 15, 2005

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Published: May 15, 2005
Effective: August 8, 2005

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Published: May 15, 2005
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No. 27860 (AMD): R746-360. Universal Public
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Published: May 15, 2005
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No. 27861 (AMD): R746-405-1. General Provisions.
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Effective: August 8, 2005

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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, 2005, including notices of effective date received through August 15, 2005, the effective dates of which are no later than September 1, 2005. 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: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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.utah.gov/>).

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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Environmental Quality

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	27951	R162-2-1	CPR	08/17/2005	2005-14/75
	27720	R162-2-2	NSC	04/01/2005	Not Printed
	27940	R162-6-1	AMD	07/20/2005	2005-12/16
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	27779	R645-400	5YR	03/25/2005	2005-8/58
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	27700	R35-1a	NSC	04/01/2005	Not Printed
	27625	R35-2	AMD	03/04/2005	2005-2/18
	27622	R35-3	AMD	03/04/2005	2005-2/19
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	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54
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	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
	27867	R865-19S-112	AMD	07/20/2005	2005-11/67
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	27861	R746-405-1	AMD	08/08/2005	2005-10/44
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	28150	R912-16	5YR	08/15/2005	2005-17/56
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