

# 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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## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between December 16, 2005, 12:00 a.m., and January 3, 2006, 11:59 p.m. are included in this, the January 15, 2006, 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 Rules being repealed are completely struck out.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 February 14, 2006. 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 May 15, 2006, 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.

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**The Proposed Rules Begin on the Following Page.**

**Administrative Services, Facilities  
Construction and Management  
R23-1  
Procurement of Construction**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28435

FILED: 12/23/2005, 13:33

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to increase the level to which the small purchase provisions apply. The level at which bid, payment, and performance bonds are required is also increased to the same level. Also to quickly detail the changes, this amendment increases (from \$50,000 to \$100,000) the level of construction contract at which the full procurement requirements must be met. Above this level, contracts must be advertised and a formal procurement process followed. Also, the current rule allows the director to use whatever method he deems adequate and reasonable to select construction contracts costing \$5,000 or less. The amendment increases this level to \$10,000. There is a safeguard; existing language in the rule that is not being amended provides that these dollar levels are minimum requirements and the more stringent requirements may be applied to smaller contracts when warranted.

**SUMMARY OF THE RULE OR CHANGE:** This amendment increases (from \$50,000 to \$100,000) the level of construction contract at which the full procurement requirements must be met. Above this level, contracts must be advertised and a formal procurement process followed. Contracts costing less than this amount fall into the "small procurement" provisions where the rule provides for two levels of procedural requirements. The current rule allows the director to use whatever method he deems adequate and reasonable to select construction contracts costing \$5,000 or less. The amendment increases this level to \$10,000. The second level of procedure requires that written quotations or proposals be obtained from at least two firms. The selection is then made similar to the regular processes except that a public advertisement is not required and only invited firms may submit bids or proposals. Under the amended provisions, this second level of procedural requirement applies to construction contracts costing more than \$10,000 and up to \$100,000. Finally, the amendment increases the level at which bid, payment and performance bonds are required from \$50,000 to \$100,000. This maintains the same level above which the full procurement requirements and the bonding requirement apply. It should be noted that existing language in the rule that is not being amended provides that these dollar levels are minimum requirements and the more stringent requirements may be applied to smaller contracts when warranted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63-56-208(2) and 63-56-504(3)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** During the last two years, construction costs have increased by about 25% and they are expected to continue to rise by about 10% per year for the next two years.

This has caused a substantial number of contracts to move into more stringent procurement requirements which demand a greater level of effort by the Division of Facilities and Construction Management (DFCM) staff. This amendment will return the workload demand for DFCM staff to the level that existed prior to the escalation of construction costs. In addition, the amendment regarding surety bonds will result in these bonds not being provided for contracts costing between \$50,000 and \$100,000. As it is very rare for a bond claim to be worth pursuing on this size of contract, this will result in savings in these construction contracts. It is not possible to estimate the actual savings that will accrue from these amendments.

❖ **LOCAL GOVERNMENTS:** As this amendment does not apply to local government, it has no fiscal impact on local government.

❖ **OTHER PERSONS:** The amendments will reduce the costs for construction contractors to pursue contracts with DFCM costing \$100,000 or less. The amount of this savings cannot be estimated.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The effect of the amendments is to decrease the cost to comply with procurement requirements for firms pursuing building construction contracts with the State.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments streamline the procurement procedures that must be followed by contractors seeking smaller building construction contracts with the State. This will result in savings that will benefit the contractors and a portion will flow through to the State. D'Arcy Dixon-Pignanelli, Executive Director

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

ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
Room 4110 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:**

Kenneth Nye at the above address, by phone at 801-538-3284, by FAX at 801-538-3267, or by Internet E-mail at [knye@utah.gov](mailto:knye@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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: Keith Stepan, Director

**R23. Administrative Services, Facilities Construction and Management.****R23-1. Procurement of Construction.****R23-1-20. Small Purchases.**

(1) Procurements of [~~\$50,000~~]\$100,000 or Less.

(a) The Director may make procurements of construction estimated to cost [~~\$50,000~~]\$100,000 or less by soliciting at least two firms to submit written quotations. The award shall be made to the firm offering the lowest acceptable quotation.

(b) The names of the persons submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record by the Division.

(c) If the Director determines that other factors in addition to cost should be considered in a procurement of construction estimated to cost [~~\$50,000~~]\$100,000 or less, the Director shall solicit proposals from at least two firms. The award shall be made to the firm offering the best proposal as determined through application of the procedures provided for in Section R23-1-15 except that a public notice is not required and only invited firms may submit proposals.

(2) Procurements of [~~\$5,000~~]\$7,500 or Less. The Director may make small purchases of construction of [~~\$5,000~~]\$7,500 or less in any manner that he shall deem to be adequate and reasonable.

(3) Division of Procurements. Procurements shall not be divided in order to qualify for the procedures outlined in this section.

**R23-1-40. Acceptable Bid Security; Performance and Payment Bonds.**

(1) Application. This section shall govern bonding and bid security requirements for the award of construction contracts by the Division in excess of [~~\$50,000~~]\$100,000; although the Division may require acceptable bid security and performance and payment bonds on smaller contracts. Bidding Documents shall state whether acceptable bid security, performance bonds or payment bonds are required.

(2) Acceptable Bid Security.

(a) Invitations for Bids and Requests For Proposals shall require the submission of acceptable bid security in an amount equal to at least five percent of the bid, at the time the bid is submitted. If a contractor fails to accompany its bid with acceptable bid security, the bid shall be deemed nonresponsive, unless this failure is found to be nonsubstantial as hereinafter provided.

(b) If acceptable bid security is not furnished, the bid shall be rejected as nonresponsive, unless the failure to comply is determined by the Director to be nonsubstantial. Failure to submit an acceptable bid security may be deemed nonsubstantial if:

(i)(A) the bid security is submitted on a form other than the Division's required bid bond form and the bid security meets all other requirements including being issued by a surety meeting the requirements of Subsection (5); and

(B) the contractor provides acceptable bid security by the close of business of the next succeeding business day after the Division notified the contractor of the defective bid security; or

(ii) only one bid is received.

(3) Payment and Performance Bonds. Payment and performance bonds in the amount of 100% of the contract price are required for all contracts in excess of [~~\$50,000~~]\$100,000. These bonds shall cover the procuring agencies and be delivered by the contractor to the Division at the same time the contract is executed. If a contractor fails to deliver the required bonds, the contractor's bid shall be found nonresponsive and its bid security shall be forfeited.

(4) Forms of Bonds. Bid Bonds, Payment Bonds and Performance Bonds must be from sureties meeting the requirements of Subsection (5) and must be on the exact bond forms most recently adopted by the Board and on file with the Division.

(5) Surety firm requirements. All surety firms must be authorized to do business in the State of Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A cosurety may be utilized to satisfy this requirement.

(6) Waiver. The Director may waive the bonding requirement if the Director finds, in writing, that bonds cannot be reasonably obtained for the work involved.

**KEY: contracts, public buildings, procurement**

**Date of Enactment or Last Substantive Amendment: [~~October 18, 2005~~]2006**

**Notice of Continuation: June 6, 2002**

**Authorizing, and Implemented or Interpreted Law: 63A-5-103 et seq.; 63-56-14(2); 63-56-20(7)**



## Administrative Services, Purchasing and General Services

### **R33-1-1** Definitions

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28445

FILED: 01/03/2006, 15:14

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to establish a definition for "electronic" that will be used for rules that provide for electronic submission of bids and proposals. The Utah Procurement Policy Board, following public comment and to enable electronic commerce, is adding this definition so that where applicable electronic bids and requests for proposals (RFPs) may be received.

**SUMMARY OF THE RULE OR CHANGE:** The change adds a definition for "electronic" and then renumbers the subsequent subsections.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63-56-202, 63-56-208, 63-56-401, and 63-56-405

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--It is not anticipated that this amendment will result in an overall positive or negative fiscal impact to the state budget. If there are additional costs associated with electronic commerce, it is anticipated that they will be offset by administrative efficiencies that doing business electronically will create. This is based upon our research

from other states and entities that have implemented electronic receipt of bids.

❖ LOCAL GOVERNMENTS: None--It is not anticipated that this amendment will result in an overall positive or negative fiscal impact to local governments budgets. If there are additional costs associated with electronic commerce, it is anticipated that they will be offset by administrative efficiencies that doing business electronically will create. This is based upon our research from other states and entities that have implemented electronic receipt of bids.

❖ OTHER PERSONS: There may be some cost savings for suppliers to submit bids and proposals electronically. This is based upon our research from other states and entities that have implemented electronic receipt of bids.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There should not be any compliance costs for affected persons. There may be some cost savings for suppliers to submit bids and proposals electronically. This is based upon our research from other states and entities that have implemented electronic receipt of bids.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be some cost savings to businesses who submit bids and proposals electronically. The cost savings would be from reduced postage, courier and printing costs. D'Arcy Dixon-Pignaneli, Executive Director

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

ADMINISTRATIVE SERVICES  
PURCHASING AND GENERAL SERVICES  
Room 3150 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:

Douglas Richins at the above address, by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at drichins@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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: Douglas Richins, Director

**R33. Administrative Services, Purchasing and General Services.**

**R33-1. Utah State Procurement Rules Definitions.**

**R33-1-1. Definitions.**

A. Terms used in the procurement rules are defined in Section 63-56-105.

B. In addition:

(1) Actual Costs means direct and indirect costs which have been incurred for services rendered, supplies delivered, or construction built, as distinguished from allowable costs.

(2) Adequate Price Competition means when competitive sealed proposals are solicited and at least two responsible offerors independently contend for a contract to be awarded to the responsible offeror submitting the lowest evaluated price by submitting priced best and final offers meeting the requirements of the request for proposals. If the foregoing conditions are met, price competition shall be presumed to be "adequate" unless the procurement officer determines that there is not adequate competition.

(3) Brand Name or Equal Specification means a specification which uses a brand name specification to describe the standard of quality, performance, and other characteristics being solicited, and which invites the submission of equivalent products.

(4) Brand Name Specification means a specification calling for one or more products by manufacturers' names or catalogue numbers.

(5) Chief Procurement Officer means the procurement officer for the State of Utah.

(6) Consultant Services means work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advise in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, and data processing.

(7) Cost Analysis means the evaluation of cost data for the purpose of arriving at estimates of costs to be incurred, prices to be paid, cost to be reimbursed, or costs actually incurred.

(8) Cost Data means factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

(9) Cost Objective means a function, organizational subdivision, contract, or any other work unit for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, and similar items.

(10) Discussions as used in source selection means negotiation during which the seller or buyer may alter or otherwise change the terms, price or other provisions of the proposed contract. Discussion can be conducted under competitive sealed proposals, sole source, and emergency procurements; such discussion is not permissible under competitive sealed bidding except to the extent in the first phase of multi-step bidding.

(11) Electronic means, in reference to any solicitation process, only those specified electronic forms described in the Invitation for Bids, Request for Proposals or other solicitation document.

~~(12)(11)~~ Established Market Price means a current price, established in the usual and ordinary course of trade between buyers and sellers, which can be substantiated from sources independent of the manufacturer or supplier.

~~(13)(12)~~ Lease means a contract for the use of equipment or real property under which title does not pass to the purchasing agency.

~~(14)(13)~~ Prequalification for Inclusion on Bidders Lists means determining that a prospective bidder or offeror satisfies the criteria established for receipt of solicitations when and as issued.

~~(15)(14)~~ Price Analysis means the evaluation of price data without analysis of the separate cost components and profit which may assist in arriving at prices to be paid or costs to be reimbursed.



~~(16)~~~~(15)~~ Price Data means factual information concerning prices for supplies, services, or construction substantially identical to those being procured. Prices in this definition refer to offered or proposed selling prices. The definition refers to data relevant to both prime and subcontract prices.

~~(17)~~~~(16)~~ Professional Services means work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, court reporters, X-ray technicians, legal, medical, nursing, education, engineering, actuarial, architecture, veterinarians, and research. The knowledge is founded upon prolonged and specialized intellectual training which enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills.

~~(18)~~~~(17)~~ Property means all real property, personal property, or both, owned by a purchasing agency.

~~(19)~~~~(18)~~ Providers means suppliers of services, which might be termed "personal services", to benefit clients or citizens of the enacting jurisdiction which services otherwise might be performed by its own employees. For example, an enacting jurisdiction might contract with a school to conduct a training program for the handicapped. Similarly, the state might contract with persons to provide foster homes for children. It will be necessary to ascertain on a case-by-case basis whether the services to be rendered will involve extended analysis and significant features of judgment.

~~(20)~~~~(19)~~ Qualified Products List means a list of supplies, services, or construction items described by model or catalogue numbers, which, prior to solicitation, the purchasing agency has determined will meet the applicable specification requirements.

~~(21)~~~~(20)~~ Solicitation means an Invitation for Bids, a Request for Proposals, or any other document, such as a request for quotations, issued by the purchasing agency for the purpose of soliciting offers to perform a contract.

~~(22)~~~~(21)~~ Suppliers means prospective bidders or offerors, as used in section 63-56-414 of the Utah Procurement Code.

**KEY: government purchasing**

**Date of Enactment or Last Substantive Amendment:** ~~1994~~2006

**Notice of Continuation:** November 27, 2002

**Authorizing, and Implemented or Interpreted Law:** 63-56



**Administrative Services, Purchasing  
and General Services**

**R33-3**

**Source Selection and Contract  
Formation**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28447

FILED: 01/03/2006, 16:46

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to delete references to antiquated means of receiving bids and proposals and provide for receipt of bids, quotations, and proposals by electronic means; to clarify when a late bid or proposal may be considered; to correct an incorrect number reference; and to change the reference numbers to the Utah Procurement Code which the legislature renumbered in 2005. Changes also clarify that both successful and unsuccessful proposals received become public information, except for those portions marked trade secrets or business confidential; and articulate what evaluation documents do not become public information to protect the integrity of the procurement process. All of these changes (except the renumbering) are the result of the Utah Procurement Policy Board decisions following public comment.

**SUMMARY OF THE RULE OR CHANGE:** The changes: 1) delete references to receiving bids by telegraph and mailgrams and provide that bids and proposals may be received via electronic means; 2) provide that a late bid or a late proposal may be considered only when the lateness is the fault of the procuring agency; 3) provide that both successful and unsuccessful proposals become public information, except for trade secrets and business confidential information as allowed by the Government Records Access and Management Act (GRAMA); and 4) articulate what proposal evaluation documents become public and what evaluation documents do not become public to protect the public procurement process.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63-56-202, 63-56-208, 63-56-408, 63-2-304, and 63-2-308

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--It is not anticipated that this amendment will result in an overall positive or negative impact to the state budget. If there are additional costs associated with electronic commerce, it is anticipated that they will be offset by administrative efficiencies that doing business electronically will create. This is based upon our research from other states and entities that have implemented electronic receipt of bids. Any additional costs resulting from the rule change making unsuccessful proposals public will be recovered from the person requesting a copy as allowed by GRAMA.

❖ **LOCAL GOVERNMENTS:** None--It is not anticipated that this amendment will result in an overall positive or negative impact to the local government budgets. If there are additional costs associated with electronic commerce, it is anticipated that they will be offset by administrative efficiencies that doing business electronically will create. This is based upon our research from other states and entities that have implemented electronic receipt of bids. Any additional costs resulting from the rule change making unsuccessful proposals public will be recovered from the person requesting a copy as allowed by GRAMA.

❖ OTHER PERSONS: None--It is not anticipated that other persons will either have costs or savings due to this rule amendment. If there are additional costs associated with electronic commerce, it is anticipated that they will be offset by administrative efficiencies that doing business electronically will create. This is based upon our research from other states and entities that have implemented electronic receipt of bids. Any additional costs resulting from the rule change making unsuccessful proposals public will be recovered from the person requesting a copy as allowed by GRAMA.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There should not be any compliance costs for affected persons. If there are additional costs associated with electronic commerce, it is anticipated that they will be offset by administrative efficiencies that doing business electronically will create. This is based upon our research from other states and entities that have implemented electronic receipt of bids. Any additional costs resulting from the rule change making unsuccessful proposals public will be recovered from the person requesting a copy as allowed by GRAMA.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Some businesses may incur additional costs associated with marking information that they do not wish to become public as they submit responses to requests for proposals. However, it appears that this is necessary in order to be in compliance with the requirements of GRAMA. D'Arcy Dixon-Pignanelli, Executive Director

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

ADMINISTRATIVE SERVICES  
PURCHASING AND GENERAL SERVICES  
Room 3150 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:

Douglas Richins at the above address, by phone at 801-538-3143, by FAX at 801-538-3882, or by Internet E-mail at drichins@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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: Douglas Richins, Director

### **R33. Administrative Services, Purchasing and General Services.**

#### **R33-3. Source Selection and Contract Formation.**

##### **R33-3-1. Competitive Sealed Bidding; Multi-Step Sealed Bidding.**

3-101 Content of the Invitation For Bids.

(1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.

(2) Content. The Invitation for Bids include the following:

(a) Instructions and information to bidders concerning the bid submission requirements, including the time and closing date for submission of bids, the address of the office to which bids are to be delivered, and any other special information;

(b) The purchase description, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements not included in the purchase description;

(c) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

(3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where the documents can be obtained.

(4) Acknowledgement of Amendments. The Invitation for Bids shall require the acknowledgement of the receipt of all amendments issued.

3-102 Bidding Time. Bidding time is the period of time between the date of distribution of the Invitation for Bids and the date set for opening of bids. In each case bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 10 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Chief Procurement Officer.

3-103 Bidder Submissions.

(1) Bid Form. The Invitation for Bids shall provide a form which shall include space in which the bid price shall be inserted and which the bidder shall sign and submit along with all other necessary submissions.

(2) ~~Electronic~~ [Telegraphic] Bids. The Invitation for Bids may state that ~~electronic~~ [telegraphic] bids ~~[and mailgrams]~~ will be considered whenever they are received [in hand] at the designated office by the time specified for bid opening. ~~[Telegraphic bids or mailgrams shall contain specific reference to the Invitation for Bids, the time and place of delivery, and a statement that the bidder agrees to all the terms, conditions, and provisions of the Invitation for Bids. Bidders submitting telegraphic or mailgram bids shall submit a formal bid on the Invitation for Bids form within three days of the bid opening date or a time designated by the procurement officer.]~~

(3) Bid Samples and Descriptive Literature.

(a) Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, or operation of an item and assists the purchasing agency in considering whether the item meets requirements or criteria set forth in the invitation.

(b) Bid sample means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

(c) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

(d) Samples of items, when called for in the Invitation for Bids, must be furnished free of expense, and if not destroyed by testing, will upon request, be returned at the bidder's expense. Samples submitted by the successful bidder may be held for comparison with merchandise furnished and will not necessarily be returned. Samples must be labeled or otherwise identified as called for by the purchasing agency.

(4) Bid Security. Bid and performance bonds or other security may be required for supply contracts or service contracts as the procurement officer deems advisable to protect the interests of the purchasing agency. Any requirements must be set forth in the solicitation. Bid or performance bonds should not be used as a substitute for a determination of bidder or offeror responsibility.

(5) Bid Price. Bid prices submitted in response to an invitation for bids must stand alone and may not be dependent upon a bid submitted by any other bidder. A bid reliant upon the submission of another bidder will not be considered for award.

#### 3-104 Public Notice.

(1) Distribution. Invitation for Bids or notices of the availability of Invitation for Bids shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing reasonable competition. Notices of availability shall indicate where, when, and for how long Invitation for Bids may be obtained; generally describe the supply, service, or construction desired; and may contain other appropriate information. Where appropriate, the procurement officer may require payment of a fee or a deposit for the supplying of the Invitation for Bids.

(2) Publication. Every procurement in excess of \$50,000 shall be publicized in any or all of the following:

- (a) in a newspaper of general circulation;
- (b) in a newspaper of local circulation in the area pertinent to the procurement;
- (c) in industry media; or
- (d) in a government internet website or publication designed for giving public notice.

(3) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection at the procurement officer's office.

#### 3-105 Bidder List; Prequalification.

(1) Purpose. Lists of qualified prospective bidders may be compiled and maintained by purchasing agencies for the purpose of soliciting competition on various types of supplies, services, and construction. Qualifications for inclusion on the lists may include legal competence to contract and capabilities for production and distribution as considerations. However, solicitations shall not be restricted to prequalified suppliers, and unless otherwise provided inclusion or exclusion on the name of a business does not determine whether the business is responsible with respect to a particular procurement or otherwise capable of successfully performing a contract.

(2) Public Availability. Subject to procedures established by the procurement officer, names and addresses on bidder lists shall be available for public inspection.

#### 3-106 Pre-Bid Conferences.

Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bids. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment as provided in section 3-107 and the Invitation for Bids and the notice of the pre-bid conference shall so provide. If a written summary of the conference is deemed advisable by the procurement officer, a copy shall be supplied to all those prospective bidders known to have received an Invitation for Bids and shall be available as a public record.

#### 3-107 Amendments to Invitation for Bids.

(1) Application. Amendments should be used to:

- (a) make any changes in the Invitation for Bids including changes in quantity, purchase descriptions, delivery schedules, and opening dates;
- (b) correct defects or ambiguities; or
- (c) furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of information would be inequitable to other bidders.

(2) Form. Amendments to Invitation for bids shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued.

(3) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.

(4) Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time set for bid opening will not permit proper preparation, to the extent possible the time shall be increased in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

#### 3-108 Pre-Opening Modification of Withdrawal of Bids.

(1) Procedure. Bids may be modified or withdrawn by written or electronic~~telegraphic~~ notice received in the office designated in the Invitation for Bids prior to the time set for bid opening. ~~[-A telegraphic modification or withdrawal received by telephone prior to bid opening from the receiving telegraph company will be effective if the telegraph company confirms the message by sending a copy of the written telegram showing that the message was received prior to bid opening.]~~

(2) Disposition of Bid Security. Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted.

(3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

#### 3-109 Late Bids, Late Withdrawals, and Late Modifications.

(1) Definition. Any bid, withdrawal, or modification received at the address designated in the Invitation for Bids after the time and date set for opening of bids at the place designated for opening is late.

(2) Treatment. No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of personnel directly serving the procurement activity ~~or lateness otherwise not attributable to bidder's fault or negligence~~.

(3) Records. Records equivalent to those required in section 3-108 (3) shall be made and kept for each late bid, late modification, or late withdrawal.

#### 3-110 Receipt, Opening, and Recording of Bids.

(1) Receipt. Upon receipt, all bids and modifications will be time stamped, but not opened. Bids submitted through electronic means shall be received in such a manner that the time and date of submittal, along with the contents of such bids shall be securely stored until the time and date set for bid opening. They shall be stored in a secure place until bid opening time.

(2) Opening and Recording. Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the Invitation for Bids. The names of the bidders, the bid price, and other information as is deemed appropriate by the procurement officer, shall be read aloud or otherwise be made available. The opened bids shall be available for public inspection except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in subsection (3) of this section. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid. Make and model, and model or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary. Bids submitted through electronic means shall be received in such a manner that the requirements of this section can be readily met.

(3) Confidential Data. The procurement officer shall examine the bids to determine the validity of any requests for nondisclosure of trade

secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, the procurement officer shall inform the bidders in writing what portions of the bids will be disclosed.

### 3-111 Mistakes in Bids.

(1) If a mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the procurement officer and to the extent it is not contrary to the interest of the purchasing agency or the fair treatment of other bidders.

(2) Mistakes Discovered Before Opening. A bidder may correct mistakes discovered before bid opening by withdrawing or correcting the bid as provided in section 3-108.

(3) Confirmation of Bid. When it appears from a review of the bid that a mistake has been made, the bidder should be requested to confirm the bid. Situations in which confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn if the conditions set forth in subsection (1), (4) and (6) of this section are met.

(4) Mistakes Discovered After Opening But Before Award. This subsection sets forth procedures to be applied in three situations described in paragraphs (a), (b) and (c) below in which mistakes in bids are discovered after opening but before award.

(a) Minor Informalities. Minor informalities are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is not significant. The procurement officer may waive these informalities. Examples include the failure of a bidder to:

(i) return the number of signed bids required by the Invitation for Bids;

(ii) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound;

(iii) acknowledge receipt of an amendment to the Invitation for Bids, but only if:

(A) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or

(B) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

(C) Mistakes Where Intended Bid is Evident. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

(D) Mistakes Where Intended Bid is Not Evident. A bidder may be permitted to withdraw a low bid if:

(i) a mistake is clearly evident on the face of the bid document but the intended bid is not similarly evident; or

(ii) the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

(5) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract.

(6) Written Approval or Denial Required. The procurement officer shall approve or deny, in writing, a bidder's request to correct or withdraw a bid. Approval or denial may be so indicated on the bidder's written request for correction or withdrawal.

### 3-112 Bid Evaluation and Award.

(1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements

and criteria set forth in the Invitation for Bids. The Invitation for Bids shall set forth the requirements and criteria which will be used to determine the lowest responsive and responsible bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids. An Invitation for Bids, a Request for Proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, when it is the best interests of the purchasing agency as determined by the purchasing agency. In the event of cancellation of the solicitation or rejection of all bids or proposals received in response to a solicitation, the reasons for cancellation or rejection shall be made a part of the bid file and shall be available for public inspection and the purchasing agency shall (a) resolicit new bids using the same or revised specifications; or (b) withdraw the requisition for supplies or services.

(2) Responsibility and Responsiveness. Responsibility of prospective contractors is covered by subpart 3-7 of these rules. Responsiveness of bids is covered by Subsection 63-56-~~5(24)~~105(24) and responsive bidder is defined in Subsection 63-56-~~5(23)~~105(25).

(3) Product Acceptability. The Invitation for Bids shall set forth the evaluation criteria to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for:

(a) inspection or testing of a product prior to award for such characteristics as quality or workmanship;

(b) examination of such elements as appearance, finish, taste, or feel; or

(c) other examinations to determine whether it conforms with any other purchase description requirements. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

(4) Determination of Lowest Bidder. Bids will be evaluated to determine overall economy for the intended use, in accordance with the evaluation criteria set forth in the Invitation for Bids. Examples of criteria include transportation cost, energy cost, ownership and other identifiable costs or life-cycle cost formulae. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors shall:

(a) be reasonable estimates based upon information the purchasing agency has available concerning future use; and

(b) treat all bids equitably.

(5) Extension of Time for Bid or Proposal Acceptance. After opening bids or proposals, the procurement officer may request bidders or offerors to extend the time during which their bids or proposals may be accepted, provided that, with regard to bids, no other change is permitted. The reasons for requesting an extension shall be documented.

(6) Only One Bid or Proposal Received. If only one responsive bid is received in response to an Invitation for Bids, including multi-step bidding, an award may be made to the single bidder if the procurement officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise, the bid may be rejected and:

(a) new bids or offers may be solicited;

(b) the proposed procurement may be canceled; or

(c) if the procurement officer determines in writing that the need for the supply of service continues but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or

resolicitation would likely be futile, the procurement may then be conducted under subpart 3-4 or subpart 3-5, as appropriate.

(7) Multiple or Alternate Bids or Proposals. Unless multiple or alternate bids or offers are specifically provided for, the solicitation shall state they will not be accepted. When prohibited, the multiple or alternate bids or offers shall be rejected although a clearly indicated base bid shall be considered for award as though it were the only bid or offer submitted by the bidder or offeror. The provisions of this subsection shall be set forth in the solicitation, and if multiple or alternate bids are allowed, it shall specify their treatment.

#### 3-113 Tie Bids.

(1) Definition. Tie bids are low responsive bids from responsible bidders that are identical in price.

(2) Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among identical bidders. In the discretion of the procurement officer, award shall be made in any permissible manner that will discourage tie bids. Procedures which may be used to discourage tie bids include:

(a) where identical low bids include the cost of delivery, award the contract to the bidder closest to the point of delivery;

(b) award the contract to the identical bidder who received the previous award and continue to award succeeding contracts to the same bidder so long as all low bids are identical;

(c) award to the identical bidder with the earliest delivery date;

(d) award to a Utah resident bidder or for a Utah produced product where other tie bids are from out of state;

(e) if price is considered excessive or for other reason the bids are unsatisfactory, reject all bids and negotiate a more favorable contract in the open market; or

(f) if no permissible method will be effective in discouraging tie bids and a written determination is made so stating, award may be made by drawing lots.

(3) Record. Records shall be made of all Invitations for Bids on which tie bids are received showing at least the following information:

(a) the Invitation for Bids;

(b) the supply, service, or construction item;

(c) all the bidders and the prices submitted; and

(d) procedure for resolving tie bids. A copy of each record shall be sent to the Attorney General if the tie bids are in excess of \$50,000.

#### 3-114 Multi-Step Sealed Bidding.

(1) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the purchasing agency, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to arrive at technical offers and terms acceptable to the purchasing agency and suitable for competitive pricing.

(2) Use. The multi-step sealed bidding method will be used when the procurement officer deems it to the advantage of the purchasing agency. Multi-step sealed bidding will thus be used when it is considered desirable:

(a) to invite and evaluate technical offers to determine their acceptability to fulfill the purchase description requirements;

(b) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information,

permit amendments of technical offers, or amend the purchase description;

(c) to accomplish subsections (a) and (b) of this section prior to soliciting priced bids; and

(d) to award the contract to the lowest responsive and responsible bidder in accordance with the competitive sealed bidding procedures.

#### 3-115 Pre-Bid Conferences in Multi-Step Sealed Bidding.

Prior to the submission of unpriced technical offers, a pre-bid conference as contemplated by section 3-106 may be conducted by the procurement officer. The procurement officer may also hold a conference of all bidders in accordance with section 3-106 at any time during the evaluation of the unpriced technical offers.

#### 3-116 Procedure for Phase One of Multi-Step Sealed Bidding.

(1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by section 3-101.

In addition to the requirements set forth in section 3-101, the multi-step Invitation for Bids shall state:

(a) that unpriced technical offers are requested;

(b) whether price bids are to be submitted at the same time as unpriced technical offers; if they are, the price bids shall be submitted in a separate sealed envelope;

(c) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

(d) the criteria to be used in the evaluation of the unpriced technical offers;

(e) that the purchasing agency, to the extent the procurement officer finds necessary, may conduct oral or written discussions of the unpriced technical offers;

(f) that bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and

(g) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.

(2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers and they shall be allowed to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids shall be canceled in accordance with Subsection R33-3-112(1) of these rules and a new Invitation for Bids issued.

(3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers shall be opened publicly, identifying only the names of the bidders. Technical offers and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of bids, a register of bids shall be open to public inspection and shall include the name of each bidder, and a description sufficient to identify the supply, service, or construction item offered. Prior to the award of the selection of the lowest responsive and responsible bidder following phase two, technical offerors shall be shown only to purchasing agency personnel having a legitimate interest in them. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

(4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in

accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

- (a) acceptable;
- (b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- (c) unacceptable. The procurement officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The procurement officer may initiate phase two of the procedure if, in the procurement officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without modification or alteration of the offers. If the procurement officer finds that this is not the case, the procurement officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in subsection (5) of this section.

(5) Discussion of Unpriced Technical Offers. Discussion of its technical offer may be conducted by the procurement officer with any bidder who submits an acceptable or potentially acceptable technical offer. During the course of these discussions the procurement officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Once discussions are begun, any bidder who has not been notified that its offer has been finally found unacceptable may submit supplemental information modifying or otherwise amending its technical offer at any time until the closing date established by the procurement officer. This submission may be made at the request of the procurement officer or upon the bidder's own initiative.

(6) Notice of Unacceptable Unpriced Technical Offer. When the procurement officer determines a bidder's unpriced technical offer to be unacceptable, the officer shall notify the bidder. The bidders shall not be afforded an additional opportunity to supplement technical offers.

#### 3-117 Mistakes During Multi-Step Sealed Bidding.

Mistakes may be corrected or bids may be withdrawn during phase one:

- (a) before unpriced technical offers are considered;
- (b) after any discussions have commenced under section 3-116(5) (procedure for Phase One of Multi-Step Sealed Bidding, Discussion of Unpriced Technical Offers); or
- (c) when responding to any amendment of the Invitation for Bids.

Otherwise mistakes may be corrected or withdrawal permitted in accordance with section 3-111.

#### 3-118 Carrying Out Phase Two.

(1) Initiation. Upon the completion of phase one, the procurement officer shall either:

(a) open price bids submitted in phase one from bidders whose unpriced technical offers were found to be acceptable; provided, however, that the offers have remained unchanged, and the Invitation for Bids has not been amended; or

(b) invite each acceptable bidder to submit a price bid.

(2) Conduct. Phase two is to be conducted as any other competitive sealed bid procurement except:

(a) as specifically set forth in section 3-114 through section 3-120 of these rules; and

(b) no public notice need be given of this invitation to submit.

#### 3-119 Procuring Governmental Produced Supplies or Services.

Purchasing agency requirements may be fulfilled by procuring supplies produced or services performed incident to programs such as industries of correctional or other governmental institutions. The procurement officer shall determine whether the supplies or services meet the purchasing agency's requirements and whether the price

represents a fair market value for the supplies or services. If it is determined that the requirements cannot thus be met or the price is not fair and reasonable, the procurement may be made from the private sector in accordance with the Utah Procurement Code. When procurements are made from other governmental agencies, the private sector need not be solicited to compete against them.

#### 3-120 Purchase of Items Separately from Construction Contract.

The procurement officer is authorized to determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.

#### 3-121 Exceptions to Competitive Sealed Bid Process.

(1) The Chief Procurement Officer, head of a purchasing agency or designee may utilize alternative procurement methods to purchase items such as the following when determined to be more practicable or advantageous to the state.

- (a) Used vehicles
- (b) Livestock

(2) Alternative procurement methods including informal price quotations and direct negotiations may be used by the Chief Procurement Officer, head of the purchasing agency or designee for the following:

- (a) Hotel conference facilities and services
- (b) Speaker honorariums

(3) Documentation of the alternative procurement method utilized shall be part of the contract file.

#### 3-130 Reverse Auctions.

(1) Definition. In accordance with Utah Code Annotated Section 63-56-~~204~~402 a "reverse auction" means a process where:

(a) contracts are awarded in a open and interactive environment, which may include the use of electronic media; and

(b) bids are opened and made public immediately, and bidders given opportunity to submit revised, lower bids, until the bidding process is complete.

(2) Reverse auction is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated against the established criteria by the purchasing agency, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase submit their price bids through a reverse auction.

(3) Use. The reverse auction method will be used when the procurement officer deems it to the advantage of the purchasing agency.

#### 3-131 Pre-Bid Conferences in Reverse Auctions.

Prior to the submission of unpriced technical offers, a pre-bid conference as contemplated by section 3-106 may be conducted by the procurement officer. The procurement officer may also hold a conference of all bidders in accordance with section 3-106 at any time during the evaluation of the unpriced technical offers, or to explain the reverse auction process.

#### 3-132 Procedure for Phase One of Reverse Auctions.

(1) Form. A reverse auction shall be initiated by the issuance of an Invitation for Bids in the form required by section 3-101. In addition to the requirements set forth in section 3-101, the reverse auction Invitation for Bids shall state:

(a) that unpriced technical offers are requested;

(b) that it is a reverse auction procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

(c) the criteria to be used in the evaluation of the unpriced technical offers;

(d) that the purchasing agency, to the extent the procurement officer finds necessary, may conduct oral or written discussions of the unpriced technical offers;

(e) that bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and

(f) the manner which the second phase reverse auction will be conducted.

(2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers and they shall be allowed to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids shall be canceled in accordance with Subsection R33-3-112(1) of these rules and a new Invitation for Bids issued.

(3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers shall be opened publicly identifying only the names of the bidders. Technical offers and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of bids, a register of bids shall be open to public inspection and shall include the name of each bidder, and a description sufficient to identify the supply, service, or construction offered. Prior to the selection of the lowest bid of a responsive and responsible bidder following phase two, technical offers shall remain confidential and shall be available only to purchasing agency personnel and those involved in the selection process having a legitimate interest in them.

(4) Non-Disclosure of Proprietary Data. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing. If a bidder has requested in writing the non-disclosure of trade secrets and other proprietary data so identified, the procurement officer shall examine the request in the proposal to determine its validity prior to the beginning of phase two. If the parties do not agree as to the disclosure of data, the procurement officer shall inform the bidder in writing what portion of the bid will be disclosed and that, unless the bidder withdraws the bid it will be disclosed.

(5) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:

(a) acceptable;

(b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

(c) unacceptable. The procurement officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The procurement officer may initiate phase two of the procedure if, in the procurement officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without modification or alteration of the offers. If the procurement officer finds that this is not the case, the procurement officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in subsection (6) of this section.

(6) Discussion of Unpriced Technical Offers. Discussion of its technical offer may be conducted by the procurement officer with any bidder who submits an acceptable or potentially acceptable technical offer. During the course of these discussions the procurement officer shall not disclose any information derived from one unpriced technical offer to any other bidder. Once discussions are begun, any bidder who

has not been notified that its offer has been finally found unacceptable may submit supplemental information modifying or otherwise amending its technical offer at any time until the closing date established by the procurement officer. This submission may be made at the request of the procurement officer or upon the bidder's own initiative.

(7) Notice of Unacceptable Unpriced Technical Offer. When the procurement officer determines a bidder's unpriced technical offer is unacceptable, the officer shall notify the bidder. After this notification the bidder shall not be afforded an additional opportunity to modify their technical offer.

#### 3-133 Carrying Out Phase Two of Reverse Auctions.

(1) Upon the completion of phase one, the procurement officer shall invite those technically qualified bidders to participate in phase two of the reverse auction which is an open and interactive process where pricing is submitted, made public immediately, and bidders are given opportunity to submit revised, lower bids, until the bidding process is closed.

(2) The invitation for bids shall:

(a) establish a date and time for the beginning of phase two;

(b) establish a closing date and time. The closing date and time need not be a fixed point in time, but may remain dependent on a variable specified in the invitation for bids.

(3) Following receipt of the first bid after the beginning of phase two, the lowest bid price shall be posted, either manually or electronically, and updated as other bidders submit their bids.

(a) At any time before the closing date and time a bidder may submit a lower bid, provided that the price is below the then lowest bid.

(b) Bid prices may not be increased after the beginning of phase two.

#### 3-134 Mistakes During Reverse Auctions.

(1) Mistakes may be corrected or bids may be withdrawn during phase one:

(a) before unpriced technical offers are considered;

(b) after any discussions have commenced under section 3-132(5) (procedure for Phase One of Reverse Auctions, Discussion of Unpriced Technical Offers); or

(c) when responding to any amendment of the Invitation for Bids. Otherwise mistakes may be corrected or withdrawal permitted in accordance with section 3-111.

(2) A phase two bid may be withdrawn only in accordance with 3-111. If a bid is withdrawn, a later bid submitted by the same bidder may not be for a higher price. If the lowest responsive bid is withdrawn after the closing date and time, the procurement officer may cancel the solicitation or reopen phase two bidding to all bidders deemed technically qualified through phase one by giving notice to those bidders of the new date and time for the beginning of phase two and the new closing date and time.

### **R33-3-2. Competitive Sealed Proposals.**

#### 3-201 Use of Competitive Sealed Proposals.

(1) Appropriateness. Competitive sealed proposals may be a more appropriate method for a particular procurement or type of procurement than competitive sealed bidding, after consideration of factors such as:

(a) whether there may be a need for price and service negotiation;

(b) whether there may be a need for negotiation during performance of the contract;

(c) whether the relative skills or expertise of the offerors will have to be evaluated;

(d) whether cost is secondary to the characteristics of the product or service sought, as in a work of art; and

(e) whether the conditions of the service, product or delivery conditions are unable to be sufficiently described in the Invitation for Bids.

(2) Determinations.

(a) Except as provided in Section 63-56-~~21~~408 of the Utah Procurement Code, before a solicitation may be issued for competitive sealed proposals, the procurement officer shall determine in writing that competitive sealed proposals is a more appropriate method for contracting than competitive sealed bidding.

(b) The procurement officer may make determinations by category of supply, service, or construction item rather than by individual procurement. Procurement of the types of supplies, services, or construction so designated may then be made by competitive sealed proposals without making the determination competitive sealed bidding is either not practicable or not advantageous. The officer who made the determination may modify or revoke it at any time and the determination should be reviewed for current applicability from time to time.

(3) Professional Services. For procurement of professional services, whenever practicable, the competitive sealed proposal process shall be used. ~~[agencies shall submit to bidding procedures wherever practicable through the RFP procedures.]~~ Examples of professional services generally best procured through the RFP process are accounting and auditing, court reporters, x-ray technicians, legal, medical, nursing, education, actuarial, veterinarians, and research. The procurement officer will make the determination. Architecture and engineering professional services are to be procured in compliance with R33-5-510.

3-202 Content of the Request for Proposals.

The Request for Proposals shall be prepared in accordance with section 3-101 provided that it shall also include:

(a) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without discussions; and

(b) a statement of when and how price should be submitted.

3-203 Proposal Preparation Time.

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals. A minimum of 10 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the procurement officer.

3-204 Form of Proposal.

The manner in which proposals are to be submitted, including any forms for that purpose, may be designated as a part of the Request for Proposals.

3-204.1 Protected Records.

The following are protected records and will be redacted subject to the procedures described below. From any public disclosure of records as allowed by the Governmental Records Access and Management act (GRAMA) Title 63, Chapter 2 of the Utah Code. The protections below apply to the various procurement records including records submitted by offerors and their subcontractors or consultants at any tier.

(a) Trade Secrets. Trade Secrets, as defined in Section 13-24-2, will be protected and not be subject to public disclosure if the procedures of R33-3-204.2 are met.

(b) Certain commercial information or nonindividual financial information. Commercial information or nonindividual financial

information subject to the provisions of Section 63-2-304(2) will be a protected record and not be subject to public disclosure if the procedures of R33-3-204.2 are met.

(c) Other Protected Records under GRAMA. There will be no public disclosure of other submitted records that are subject to non-disclosure or being a protected record under a GRAMA statute provided that the requirements of R33-3-204.2 are met unless GRAMA requires such nondisclosure without any preconditions.

3-204.2 Process For Requesting Non-Disclosure. Any person (firm) who believes that a record should be protected under R33-3-204.1 shall include with their proposal or submitted document:

(a) a written indication of which provisions of the submittal(s) are claimed to be considered for business confidentiality (including trade secret or other reason for non-disclosure under GRAMA; and

(b) a concise statement of reasons supporting each claimed provision of business confidentiality.

3-204.3 Notification. The person who complies with R33-3-204.2 shall be notified by the governmental entity prior to the public release of any information for which business confidentiality has been asserted.

3-204.4 Non-Disclosure and Dispute Process. Except as provided by court order, the governmental entity to whom the request for a record is made under GRAMA, may not disclose a record claimed to be protected under R33-3-204.1 but which the governmental entity or State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal. This R33-3-204-4 does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the records committee. To the extent provided by law, the parties to a dispute regarding the release of a record may agree in writing to an alternative dispute resolution process.

3-204.5 Timing of Public Disclosure. Any allowed public disclosure of records submitted in the competitive sealed proposal process will only be made after the selection of the successful offeror(s) has been made public.

3-205 Public Notice.

Public notice shall be given by distributing the Request for Proposals in the same manner provided for distributing an Invitation for Bids under section 3-104.

3-206 Pre-Proposal Conferences.

Pre-proposal conferences may be conducted in accordance with section 3-106. Any conference should be held prior to submission of initial proposals.

3-207 Amendments to Request for Proposals.

Amendments to the Request for Proposals may be made in accordance with section 3-107 prior to submission of proposals. After submission of proposals, amendments to the Request for Proposals shall be distributed only to offerors who submitted proposals and they shall be allowed to submit new proposals or to amend those submitted. An amendment to the Request for Proposals may be issued through a request for submission of Best and Final Offers. If, in the opinion of the procurement officer, a contemplated amendment will significantly change the nature of the procurement, the Request for Proposals shall be canceled and a new Request for Proposals issued.

3-208 Modification or Withdrawal of Proposals.

Proposals may be modified or withdrawn prior to the established due date in accordance with section 3-108. For the purposes of this section and section 3-209, the established due date is either the date and time announced for receipt of proposals or receipt of modifications to proposals, if any; or if discussions have begun, it is the date and time by which best and final offers must be submitted, provided that only



offerors who submitted proposals by the time announced for receipt of proposals may submit best and final offers.

#### 3-209 Late Proposals, Late Withdrawals, and Late Modifications.

(1) Definition. Except for modification allowed pursuant to negotiation, any proposal, withdrawal, or modification received after the established due date and time at the place designated for receipt of proposals is late.

(2) Treatment. No late proposal, late modification, or late withdrawal will be considered unless received before contract award, and the late proposal would have been timely but for the action or inaction of personnel directly serving the procurement activity [~~or lateness otherwise not attributable to offeror's fault or negligence~~].

(3) Records. All documents shall be kept relating to the acceptance of any late proposal, modification or withdrawal.

#### 3-210 Receipt and Registration of Proposals.

(1) Proposals shall be opened publicly, identifying only the names of the offerors. Proposals submitted through electronic means shall be received in such a manner that the time and date of submittal, along with the contents of such proposals shall be securely stored until the time and date set for opening. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a register of proposals shall be open to public inspection and shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply, service, or construction item offered. Prior to award proposals and modifications shall be shown only to purchasing agency personnel having a legitimate interest in them.]

~~—(2) Proposals of the successful offeror(s) shall be open to public inspection for a period of 90 days after selection of the successful offeror(s). Proposals of offerors who are not awarded contracts shall not be open to public inspection.~~

~~—(3) If the offeror selected for award has requested in writing the non-disclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of this officer shall examine the request in the proposal to determine its validity prior to award of the contract. If the parties do not agree as to the disclosure of data in the contract, the head of the agency conducting the procurement or a designee of this officer shall inform the offeror in writing what portion of the proposal will be disclosed and that, unless the offeror withdraws the proposal it will be disclosed.]~~

#### 3-211 Evaluation of Proposals.

(1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors and their relative importance, including price.

(2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required. Factors not specified in the Request for Proposals shall not be considered in determining award of contract.

(3) Classifying Proposals. For the purpose of conducting discussions under section 3-212, proposals shall be initially classified as:

- (a) acceptable;
- (b) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
- (c) unacceptable.

#### 3-212 Proposal Discussion with Individual Offerors.

(1) "Offerors" Defined. For the purposes of this section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses which submitted unacceptable proposals.

(2) Purposes of Discussions. Discussions are held to facilitate and encourage an adequate number of potential contractors to offer their best proposals, by amending their original offers, if needed.

(3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The procurement officer should establish procedures and schedules for conducting discussions. If before, or during discussions there is a need for clarification or change of the Request for Proposals, it shall be amended in compliance with R33-3-2(3-207) to incorporate this clarification or change. Auction techniques and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing by the offeror.

(4) Best and Final Offers. The procurement officer shall establish a common time and date for submission of best and final offers. Best and final offers shall be submitted only once unless the procurement officer makes a written determination before each subsequent round of best and final offers demonstrating another round is in the purchasing agency's interest, and additional discussions will be conducted or the purchasing agency's requirements will be changed. Otherwise, no discussion of, or changes in, the best and final offers shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

#### 3-213 Mistakes in Proposals.

(1) Mistakes Discovered Before the Established Due Date. An offeror may correct mistakes discovered before the time and date established for receipt of proposals by withdrawing or correcting the proposal as provided in section 3-208.

(2) Confirmation of Proposal. When it appears from a review of the proposal before award that a mistake has been made, the offeror should be asked to confirm the proposal. If the offeror alleges mistake, the proposal may be corrected or withdrawn during any discussions that are held or if the conditions set forth in subsection [(4)](3) of this section are met.

(3) Mistakes Discovered After Receipt But Before Award. This subsection sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.

(a) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

(b) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this section, shall be treated as they are under competitive sealed bidding.

(c) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the correct offer considered only if:

- (i) the mistake and the correct offer are clearly evident on the face of the proposal in which event the proposal may not be withdrawn; or
- (ii) the mistake is not clearly evident on the face of the proposal, but the offeror submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a mistake and the correct offer and the correction would not be contrary to the fair and equal treatment of other offerors.

(d) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:

(i) the mistake is clearly evident on the face of the proposal and the correct offer is not; or

(ii) the offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made but does not demonstrate the correct offer or, if the correct offer is also demonstrated, to allow correction on the basis that the proof would be contrary to the fair and equal treatment of other offerors.

(4) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract.

#### 3-214 Award.

(1) Award Documentation. A brief written justification statement~~[A written determination]~~ shall be made showing the basis on which the award was found to be most advantageous to the ~~state~~purchasing agency based on the taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

(2) One Proposal Received. If only one proposal is received in response to a Request for Proposals, the procurement officer may, as the officer deems appropriate, either make an award or, if time permits, resolicit for the purpose of obtaining additional competitive sealed proposals.

#### 3-215 Publicizing Awards.

(1) After the selection of the successful offeror(s)~~[a contract is entered into]~~, notice of award shall be available in the purchasing agency's office and may be available on the internet.

(2) The following shall be disclosed to the public after notice of the selection of the successful offeror(s) and after receipt of a GRAMA request and payment of any lawfully enacted and applicable fees:

(a) the contract(s) entered into as a result of the selection and the successful proposal(s), except for those portions that are to be non-disclosed under R33-3-204;

(b) the unsuccessful proposals, except for those portions that are to be non-disclosed under R33-3-204;

(c) the rankings of the proposals;

(d) the names of the members of any selection committee (reviewing authority);

(e) the final scores used by the selection committee to make the selection, except that the names of the individual scorers shall not be associated with their individual scores or rankings.

(f) the written justification statement supporting the selection, except for those portions that are to be non-disclosed under R33-3-204.

(3) After due consideration and public input, the following has been determined by the Procurement Policy Board to impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, and will not be disclosed by the governmental entity at any time to the public including under any GRAMA request:

(a) the names of individual scorers in relation to their individual scores or rankings;

(b) non-public financial statements; and

(c) past performance and reference information, which is not provided by the offeror and which is obtained as a result of the efforts of the governmental entity. To the extent such past performance or reference information is included in the written justification statement, it is subject to public disclosure.

#### 3-216 Exceptions to Competitive Sealed Proposal Process.

(1) As authorized by Section 63-56-~~[24]~~408(1) the Chief Procurement Officer or designee may determine that for a given request it is either not practicable or not advantageous for the state to procure a commodity or service referenced in section 3-201 above by soliciting competitive sealed proposals. When making this determination, the Chief Procurement Officer may take into consideration whether the

potential cost of preparing, soliciting and evaluating competitive sealed proposals is expected to exceed the benefits normally associated with such solicitations. In the event of that it is so determined, the Chief Procurement Officer, head of a purchasing agency or designee may elect to utilize an alternative, more cost effective procurement method, which may include direct negotiations with a qualified vendor or contractor.

(2) Documentation of the alternative procurement method selected shall state the reasons for selection and shall be made a part of the contract file.

#### 3-217 Multiple Award Contracts for Human Service Provider Services.

The Chief Procurement Officer, head of a purchasing agency or designee may elect to award multiple contracts for Human Service Provider Services through a competitive sealed proposal process by first determining the appropriate fee to be paid to providers and then contracting with all providers meeting the criteria established in the RFP. However this specialized system of contracting for human service provider services may only be used when:

(1) The agency has performed an appropriate analysis to determine appropriate rates to be paid;

(2) The agency files contain adequate documentation of the reasons the contractor was awarded the contract and the reasons for selecting a particular contractor to provide the service to each client; and

(3) The agency has a formal written complaint and appeal process, notice of which is provided to the contractors, and an internal audit function to insure that selection of the contractor from the list of awarded contractors was fair, equitable and appropriate.

#### R33-3-3. Small Purchases.

##### 3-301 Authority to Make Small Purchases.

(1) Amount. The Office of the Chief Procurement Officer or purchasing agency may use these procedures if the procurement is estimated to be less than \$50,000 for supplies, services or construction.

If these procedures are not used, the other methods of source selection provided in Section 63-56-~~[23]~~410 of the Utah Procurement Code and these rules shall apply.

(2) Existing Statewide Contracts. Supplies, services, or construction items available under statewide contracts or similar agreements shall be procured under these agreements in accordance with the provisions or requirements for use and not under this subpart unless otherwise authorized by the Chief Procurement Officer.

(3) Available from One Business Only. If the supply, service, or construction item is available only from one business, the sole source procurement method set forth in subpart 3-4 of these rules shall be used.

(4) Division of Requirements. Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 63-56-~~[23]~~410 of the Utah Procurement Code.

##### 3-302 Small Purchases of Supplies, Services or Construction Between \$5,000 and \$50,000.

(1) Procedure. Insofar as it is practical for small purchases of supplies, services or construction between \$5,000 and \$50,000, no less than two businesses shall be solicited to submit electronic, telephone or written quotations. Award shall be made to the business offering the lowest acceptable quotation.

(2) Records. The names of the businesses offering quotations and the date and amount of each quotation shall be recorded and maintained as a public record.

### 3-303 Small Purchases of \$5,000 or Less.

The Chief Procurement Officer shall delegate to state agencies the ability to make purchases up to \$5,000 without involvement of the Division of Purchasing and General Services. For purchases up to \$1,000, the agency may select the best source without seeking competitive quotes. For purchases over \$1,000 and up to \$5,000, agencies shall obtain price competition, and shall purchase the item from the vendor offering the lowest quote. Unless otherwise delegated requests for all purchases over \$5,000, and sole source purchases exceeding \$1,000 shall be submitted to the Division of Purchasing and General Services.

3-304 Small Purchases of Services of Professionals, Providers, and Consultants.

If it is expected that the services of professionals, providers, and consultants can be procured for less than \$50,000, the procedures specified in this subpart may be used.

### **R33-3-9. Plant or Site Inspection; Inspection of Supplies or Services.**

#### 3-901 Inspection of Plant or Site.

Circumstances under which the purchasing agency may perform inspections include inspections of the contractor's plant or site in order to determine:

- (1) whether the standards set forth in section 3-601 have been met or are capable of being met; and
- (2) if the contract is being performed in accordance with its terms.

#### 3-902 Access to Plant or Place of Business.

The purchasing agency may enter a contractor's or subcontractor's plant or place of business to:

- (1) inspect supplies or services for acceptance by the purchasing agency pursuant to the terms of a contract;
- (2) audit cost or pricing data or audit the books and records of any contractor or subcontractor pursuant to Section 63-56-~~28~~415 subsection (5) of the Utah Procurement Code; and
- (3) investigate in connection with an action to debar or suspend a person from consideration for award of contracts pursuant to Section 63-56-~~48~~804 of the Utah Procurement Code.

#### 3-903 Inspection of Supplies and Services.

(1) Provisions for Inspection. Contracts may provide that the purchasing agency may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements or, after award, to contract requirements, and are acceptable. These inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

(2) Trial Use and Testing. The procurement officer is authorized to establish operational procedures governing the testing and trial use of various equipment, materials, and supplies by any using agency, and the relevance and use of resulting information to specifications and procurements.

#### 3-904 Conduct of Inspections.

(1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector may change any provision of the specifications or the contract without written authorization of the procurement officer. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.

(2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

(3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

#### 3-905 Inspection of Construction Projects.

On-site inspection of construction shall be performed in accordance with the terms of the contract.

### **KEY: government purchasing**

**Date of Enactment or Last Substantive Amendment:** ~~May 27, 2003~~ **2006**

**Notice of Continuation:** November 27, 2002

**Authorizing, and Implemented or Interpreted Law:** 63-56

## Commerce, Occupational and Professional Licensing

### **R156-3a**

## Architect Licensing Act Rules

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28429

FILED: 12/20/2005, 12:37

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division and the Architects Licensing Board are proposing amendments to clarify incidental practice provisions and to update and add the fine schedule into the rule. The existing fine schedule applicable to licensees and unlicensed persons under Title 58, Chapter 3a, is a Division policy.

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-3a-102, an addition is made to define incidental practice to clarify what architectural type of work can be performed by engineers and what type of engineer work can be performed by architects. Section R156-3a-501 is added regarding administrative penalties for unlawful conduct. The fine amounts being added are being increased over the current fine amounts to be consistent with other fine schedules for occupations and professions the Division regulates. Section R156-3a-501 regarding unprofessional conduct has been updated to Section R156-3a-502.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-3a-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

### **ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** As result of the fine schedule amounts being increased, the state budget would realize a positive fiscal impact. It is estimated that the increase in fines affecting persons in violation of Title 58, Chapter 3a, would bring in an additional \$1,400 in revenue each year to the state. The Division will incur minimal costs, approximately \$75, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments will not affect local governments; therefore no costs or savings are anticipated. The proposed fine schedule amendment only affect persons who violate the specified sections of Title 58, Chapter 3a, as outlined in the fine schedule.

❖ OTHER PERSONS: The proposed fine schedule amendment will affect persons (both licensed and unlicensed) who violate the specified sections of Title 58, Chapter 3a. Using figures since 2001, the Division has issued 14 administrative citations to persons who have violated Title 58, Chapter 3a. The amount collected per citation averaged \$400 per citation. It is estimated that in time the new fine schedule being proposed would increase this amount to \$800 per citation for a first offense. The proposed fine schedule will also have an impact on fines collected through stipulated or written agreements; but it is expected this impact would be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division is not able to determine an exact compliance cost to persons affected by the proposed amendments as it would depend on what statute violation they had committed and if the violation was a first, second, or third offense. However, it is estimated that the average increase in cost per citation issued would be approximately \$400.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies "incidental practice" and codifies and updates the fine schedule for violations of the law. Violators could pay approximately \$400 more per citation than in the previously applied schedule. Other than this fiscal impact to the regulated industry, no additional fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 02/14/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 2/10/2006 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Room 4A (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: J. Craig Jackson, Director

## **R156. Commerce, Occupational and Professional Licensing.**

### **R156-3a. Architect Licensing Act Rules.**

#### **R156-3a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 3a, as used in Title 58, Chapters 1, ~~and~~ 3a, and 22 or these rules:

(1) "ARE" means the NCARB Architectural Registration Examination.

(2) "Committee" means the IDP Committee created in Section R156-3a-201.

(3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).

(4) "Divisions of the ARE" mean:

(a) pre-design (PD): satisfied by passing Division A between 1983 and 1996;

(b) site planning (SP): satisfied by passing both Division B-Written and Division B-Graphic between 1988 and 1996; or by passing Division B between 1983 and 1987;

(c) building planning (BP): satisfied by passing Division C between 1983 and 1996;

(d) building technology (BT): satisfied by passing Division C between 1983 and 1996;

(e) general structures (GS): satisfied by passing Division D/F between 1988 and 1996; or by passing both Division D and Division F between 1983 and 1987;

(f) lateral forces (LF): satisfied by passing Division E between 1983 and 1996;

(g) mechanical and electrical systems (ME): satisfied by passing Division G between 1983 and 1996;

(h) materials and methods (MM): satisfied by passing Division H between 1983 and 1996; and

(i) construction documents and services (CD): satisfied by passing Division I between 1983 and 1996.

(5) "EESA" means the Education Evaluation Services for Architects.

(6) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and these rules means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

(7) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture as used in Subsection 58-3a-102(6) which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is in an area where the licensee has demonstrated competence by adequate education, training and experience;

(c) arises from and is directly related to work performed in the licensed profession;

(d) is substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsection 58-3a-603(1) or Subsection 58-22-603(1).

(~~7~~8) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2) means a NCARB approved training program.

~~(8)9~~ "NAAB" means the National Architectural Accrediting Board.

~~(9)10~~ "NCARB" means the National Council of Architectural Registration Boards.

~~(10)11~~ "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

- (a) current licensure in a recognized jurisdiction; or
- (b) the training standards and requirements set forth in the Intern Development Program.

~~(11)12~~ "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d)(i) and (iii), for licensure by endorsement, means any state, district, territory of the United States, or any foreign country who issues licenses for architects, and whose licensure requirements include:

- (a) a bachelors or post graduate degree in architecture or equivalent education as set forth in Subsection R156-3a-301(2);
- (b) a program of diversified practical experience as set forth in Subsection R156-3a-102(10), or an equivalent training program; and
- (c) passing the ARE or passing a professional architecture examination that is equivalent to the ARE.

~~(12)13~~ "Responsible charge" as used in Subsections 58-3a-102(7), 58-3a-302(2)(d)(iv) and 58-3a-304(6) means direct control and management by a principal over the practice of architecture by an organization.

~~(13)14~~ "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

~~(14)15~~ "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-3a-~~501~~502.

#### **R156-3a-103. Authority - Purpose.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 3a.

#### **R156-3a-501. Administrative Penalties - Unlawful Conduct.**

In accordance with Subsections 58-1-501, 58-1-501(1)(a) through (d), and 58-3a-501, unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

(1) Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under this chapter.

First Offense: \$800

Second Offense: \$1,600

(2) Engaging in, or representing oneself as engaged in the practice of architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.

First Offense: \$800

Second Offense: \$1,600

(3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.

First Offense: \$1,000

Second Offense: \$2,000

(4) Knowingly employing any person to practice under this chapter who is not licensed to do so.

First Offense: \$1,000

Second Offense: \$2,000

(5) Knowingly permits any person to use his license except as permitted by law.

First Offense: \$1,000

Second Offense: \$2,000

(6) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount.

(7) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(8) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(9) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

#### **R156-3a-~~501~~502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) submitting an incomplete final plan, specification, report, or set of construction plans to:

(a) a client, when the licensee represents, or could reasonably expect the client to consider, the plan, specification, report, or set of construction plans to be complete and final; or

(b) a building official for the purpose of obtaining a building permit;

(2) failing as a principal to exercise reasonable charge;

(3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or

(4) failing to conform to the generally accepted and recognized standards and ethics of the profession including those established in the August 2002 edition of the NCARB "Rules of Conduct", which is hereby incorporated by reference.

#### **KEY: architects, licensing**

**Date of Enactment or Last Substantive Amendment: ~~June 3, 2003~~2006**

**Notice of Continuation: June 11, 2001**

**Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

◆ ————— ◆

Commerce, Occupational and  
Professional Licensing

**R156-22**

Professional Engineers and  
Professional Land Surveyors Licensing  
Act Rules

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 28444

FILED: 01/03/2006, 12:02

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Professional Engineers and Professional Land Surveyors Licensing Board are proposing amendments to: 1) update or eliminate outdated provisions; 2) clarify continuing education provisions; 3) clarify incidental practice provisions; 4) add inactive status; 5) update the fine schedule; and 6) make technical amendments.

SUMMARY OF THE RULE OR CHANGE: Subsection R156-22-102(5) is added to define incidental practice to clarify what architectural type of work can be performed by engineers and what type of engineer work can be performed by architects. In Subsection R156-22-102(6), deleted outdated portions of recognized jurisdiction definition for purposes of licensure by endorsement. The remaining subsections were renumbered.

In Section R156-22-103, updated the statute citation. In Subsection R156-22-302b(1)(b), an addition is made to clarify the requirement for licensure when an applicant receives a graduate degree in engineering but the bachelor degree was not in engineering. An addition is also made to Subsection R156-22-302b(2)(b)(x) of geographic information systems as part of the elective courses that a prospective land surveyor may count for qualifying education. In Subsections R156-22-302c(1), (2), and (3), amendments are made to clarify the experience requirements and what documentation is required to verify the experience. In Subsection R156-22-302d(1)(a)(i), an addition is made that allows a doctorate degree to satisfy the NCEES Fundamentals of Engineering (FE) examination requirement. An addition is made to Subsection R156-22-302d(1)(b) to clarify that reinstatement applicants who previously took and passed a prior form of examination will not have to retake the current form examination in order to reinstate their license. Added Subsection R156-22-304(9) to clarify the continuing education that is required before an applicant is qualified for reinstatement of licensure. Added Section R156-22-305 which allows licensees to place their license on an inactive status providing they meet certain criteria. In Section R156-22-501, fine schedule amounts are increased to be current and consistent with the fine schedules for other occupations and professions regulated by the Division. In Section R156-22-601, amendments are made to delete outdated titles from the seal requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-22-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** As result of the fine schedule amounts being increased, the state budget would realize a positive fiscal impact. It is estimated that the increase in fines affecting persons in violation of Title 58, Chapter 22, would bring in an additional \$2,000 in revenue each year to the state. The Division will incur minimal costs, approximately \$75, to reprint the rule once the proposed amendments are

made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** The proposed amendments will not affect local governments; therefore, no costs or savings are anticipated. The proposed fine schedule amendment only affect persons who violate the specified sections of Title 58, Chapter 22, as outlined in the fine schedule.

❖ **OTHER PERSONS:** The proposed fine schedule amendment will affect persons (both licensed and unlicensed) who violate the specified sections of Title 58, Chapter 22. Using figures since 2002, the Division has issued 20 administrative citations to persons who have violated Title 58, Chapter 22. The amount collected per citation averaged \$400 per citation. It is estimated that in time the new fine schedule being proposed would increase this amount to \$800 per citation for a first offense. The proposed fine schedule will also have an impact on fines collected through stipulated or written agreements; but it is expected this impact would be minimal.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Division is not able to determine an exact compliance cost to persons affected by the proposed amendments as it would depend on what statute violation they had committed and if the violation was a first, second, or third offense. However, it is estimated that the average increase in cost per citation issued would be approximately \$400.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule filing contains various clarifying and substantive amendments including modification of the education, experience and examination requirements; establishing standards for inactive status of licenses; and amending the fine schedule for citations. Violators could pay approximately \$400 more per citation than in previous fine schedule. Other than this fiscal impact to the regulated industry, no additional fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at [dansjones@utah.gov](mailto:dansjones@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 02/14/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/18/2006 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 4B (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-22. Professional Engineers and Professional Land Surveyors Licensing Act Rules.**

**R156-22-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1, 3a and 22, as used in Title 58, Chapters 1, 3a and 22, or these rules:

(1) "Complete and final" as used in Section 58-22-603 means "complete construction plans" as defined in Subsection 58-22-102(3).

(2) "Direct supervision" as used in Subsection 58-22-102(10) means "supervision" as defined in Subsection 58-22-102(16).

(3) "Employee, subordinate, associate, or drafter of a licensee" as used in Subsections 58-22-102(16), 58-22-603(1)(b) and these rules means one or more individuals not licensed under this chapter, who are working for, with, or providing professional engineering, professional structural engineering, or professional land surveying services directly to and under the supervision of a person licensed under this chapter.

(4) "Engineering surveys" as used in Subsection 58-22-102(9) include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, alignment of streets, and the dependent or independent surveys or resurveys of the public land survey system.

(5) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture" as used in Subsection 58-3a-102(6), which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is in an area where the licensee has demonstrated competence by adequate education, training and experience;

(c) arises from, and is directly related to, work performed in the licensed profession;

(d) is substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsections 58-3a-603(1) or 58-22-603(1).

([5]6) "Recognized jurisdiction" as used in Subsection 58-22-302(4)(d)(i), for licensure by endorsement, means any state, district or territory of the United States, or any foreign country who issues licenses for professional engineers, professional structural engineers, or professional land surveyors, and whose licensure requirements include:

(a) Professional Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the Engineering Credentials Evaluation International (ECEI) and four years of full time engineering experience under supervision of one or more licensed engineers; [~~or eight years of full time engineering experience under supervision of one or more licensed professional engineers;~~] and

(ii) passing the NCEES Principles and Practice of Engineering Examination (PE) [~~or passing a professional engineering~~

~~examination that is substantially equivalent to the NCEES Principles and Practice of Engineering Examination].~~

(b) Professional Structural Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the Engineering Credentials Evaluation International (ECEI) and four years of full time engineering experience under supervision of one or more licensed engineers; [~~or eight years of full time engineering experience under supervision of one or more licensed professional engineers;~~]

(ii) passing the NCEES Structural I and II Examination; and

(iii) three years of licensed experience in professional structural engineering.

(c) Professional Land Surveyor.

(i) a two or four year degree in land surveying or equivalent education as determined by the Engineering Credentials Evaluation International (ECEI) and four years of full time land surveying experience under supervision of one or more licensed professional land surveyors; or eight years of full time land surveying experience under supervision of one or more licensed professional land surveyors; and

(ii) passing the NCEES Principles and Practice of Land Surveying Examination (PLS) or passing a professional land surveying examination that is substantially equivalent to the NCEES Principles and Practice of Land Surveying Examination.

([6]7) "Responsible charge" by a principal as used in Subsection 58-22-102(7) means that the licensee is assigned to and is personally accountable for the production of specified professional engineering, professional structural engineering or professional land surveying projects within an organization.

([7]8) "TAC/ABET" means Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

([8]9) "Under the direction of the licensee" as used in Subsection 58-22-102(16), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of a licensee", means that the unlicensed employee, subordinate, associate, or drafter of a person licensed under this chapter engages in the practice of professional engineering, professional structural engineering, or professional land surveying only on work initiated by a person licensed under this chapter, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed under this chapter.

([9]10) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 22, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-22-502.

**R156-22-103. Authority - Purpose.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 22.

**R156-22-302b. Qualifications for Licensure - Education Requirements.**

(1) Education requirements - Professional Engineer.

In accordance with Subsections 58-22-302(1)(d) and 58-22-302(2)(d), the engineering program criteria is established as one of the following:

(a) The bachelors or post graduate engineering program shall be accredited by EAC/ABET or the Canadian Engineering Accrediting Board (CEAB).

(b) The post graduate engineering degree, when not accredited by EAC/ABET or CEAB, shall be earned from an institution which offers a bachelors or masters degree in an engineering program accredited by EAC/ABET or CEAB in the same specific engineering discipline as the earned post graduate degree and the applicant is responsible to demonstrate that the combined engineering related coursework taken (both undergraduate and post graduate) included coursework that meets or exceeds the engineering related coursework required for the EAC/ABET accreditation for the bachelor degree program.

(c) If the degree was earned in a foreign country, the engineering curriculum shall be determined to be equivalent to a EAC/ABET accredited program by the Engineering Credentials Evaluation International. Only deficiencies in course work in the humanities, social sciences and liberal arts and no more than five semester hours in math, science or engineering, not to exceed a total of 10 semester hours noted by the credentials evaluation may be satisfied by successfully completing the deficiencies in course work at a recognized college or university approved by the division in collaboration with the board. Engineering course work deficiencies must be completed at an EAC/ABET approved program.

(d) A TAC/ABET accredited degree is not acceptable to meet the qualifications for licensure as a professional engineer.

(2) Education requirements - Professional Land Surveyor.

In accordance with Subsection 58-22-302(3)(d), an equivalent land surveying program for licensure as a professional land surveyor is defined as an earned bachelors or masters degree from a curriculum related to land surveying and completion of a minimum of 22 semester hours or 32 quarter hours of course work in land surveying which shall include the following courses:

(a) successful completion of a minimum of one course in each of the following content areas:

- (i) boundary law;
- (ii) writing legal descriptions;
- (iii) public land survey system;
- (iv) surveying field techniques; and

(b) the remainder of the 22 semester hours or 32 quarter hours may be made up of successful completion of courses from the following content areas:

- (i) photogrammetry;
- (ii) studies in land records or land record systems;
- (iii) survey instrumentation;
- (iv) global positioning systems;
- (v) geodesy;
- (vi) control systems;
- (vii) land development;
- (viii) drafting, not to exceed six semester hours or eight quarter hours;

(ix) algebra, geometry, trigonometry, not to exceed six semester hours or eight quarter hours;

- (x) geographic information systems.

#### **R156-22-302c. Qualifications for Licensure - Experience Requirements.**

(1) Experience Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall ~~[comply with one or more of]~~ complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience, obtained while under the supervision of [from] one or more licensed professional

engineers, which experience has been certified by the licensed professional who [have] provided the supervision [or who have personal knowledge of the applicant's knowledge, ability, and competence to practice professional engineering] documenting completion of a minimum of four calendar years of qualifying experience in professional engineering approved by the division in collaboration with the board in accordance with the following:

(A) ~~[Up to one year of qualifying experience may be obtained while enrolled in an engineering program meeting the criteria set forth in Section R156-22-302b(1) if completed before January 1, 2005.~~

~~—(B) Unlimited—~~The qualifying experience [may] must be obtained after meeting the education requirements.

~~[(C)]B~~ A maximum of three of the four years of qualifying experience may be approved by the board [for persons who complete one or more of the following] as follows:

(I) A maximum of three years of qualifying experience may be granted for teaching advanced engineering subjects in a college or university offering an engineering curriculum accredited by EAC/ABET.

(II) A maximum of three years of qualifying experience may be granted for conducting research in a college or university offering an engineering curriculum accredited by EAC/ABET provided the research is under the supervision of a licensed professional and is directly related to the practice of engineering.

(III) A maximum of one year of qualifying experience may be granted for completion of a masters degree in engineering provided that both the earned bachelors and masters degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(IV) A maximum of two years of qualifying experience may be granted for completion of a doctorate degree in engineering provided that both the earned bachelors or masters degree and doctorate degree in engineering meet the program criteria set forth in Subsection R156-22-302b(1).

(ii) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's engineer seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.

(iii) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was engineering related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(iv) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised.

(v) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed engineer who has personal knowledge of the applicant's knowledge, ability and competence to practice professional engineering.

(b) The performance or supervision of construction work as a contractor, foreman or superintendent is not qualifying experience for licensure as a professional engineer.

(c) Full or part time employment, research, or teaching for periods of time less than ten weeks in length will not be considered as qualifying experience.



(2) Experience Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of professional structural engineering experience obtained while under the supervision of~~from~~ one or more licensed ~~professional engineers or~~ professional structural engineers ~~[who have personal knowledge of the applicant's knowledge, ability and competence to practice professional structural engineering]~~, which experience is certified by the licensed structural engineer supervisor and is in addition to the qualifying experience required for licensure as a professional engineer.

(b) Professional structural engineering experience shall include responsible charge of structural design in one or more of the following areas:

(i) structural design of any building or structure two stories and more, or 45 feet in height, located in a region of moderate or high seismic risk designed in accordance with current codes adopted pursuant to Section 58-56-4~~[Uniform Building Code (UBC) seismic zones 2, 3, or 4]~~;

(ii) structural design for a major seismic retrofit/rehabilitation of an existing building or structure ~~[in UBC seismic zones 2, 3, or 4]~~located in a region of moderate or high seismic risk; or

(iii) structural design of any other structure of comparable structural complexity.

(c) Professional structural engineering experience shall include structural design in all of the following areas:

(i) use of three of the following four materials as they relate to the design, rehabilitation or investigation of buildings or structures:

- (A) steel;
- (B) concrete;
- (C) wood; or
- (D) masonry;

(ii) selection of framing systems including the consideration of alternatives and the selection of an appropriate system for the interaction of structural components to support vertical and lateral loads;

(iii) selection of foundation systems including the consideration of alternatives and the selection of an appropriate type of foundation system to support the structure;

(iv) design and detailing for the transfer of forces between stories in multi-story buildings or structures;

(v) application of lateral design in the design of the buildings or structures in addition to any wind design requirements; and

(vi) application of the local, state and federal code requirements as they relate to design loads, materials, and detailing.

(d) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's engineer seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.

(e) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was engineering related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(f) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in

which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised

(g) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed professional structural engineer who has personal knowledge of the applicant's knowledge, ability and competence to practice professional structural engineering.

(3) Experience Requirements - Professional Land Surveyor.

(a) In accordance with Subsections 58-22-302(3)(d), an applicant for licensure as a professional land surveyor shall ~~comply with one or more of~~ complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience obtained under the supervision of~~from~~ one or more licensed professional land surveyors who have provided supervision ~~[or who have personal knowledge of the applicant's knowledge, ability, field experience and competence to practice professional land surveying]~~, which experience is certified by the licensed professional land surveyor supervisor and is in accordance with the following:

(A) Applicants who have met the education requirements in Subsection 58-22-302(3)(d)(i) shall document four years of qualifying experience in land surveying which experience may be obtained before, during or after completing the education requirements for licensure.

(B) Prior to January 1, 2007, a~~[A]~~ applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall document eight years of qualifying experience in land surveying~~[prior to January 1, 2007]~~.

(b) The four years of qualifying experience required in R156-22-302c(3)(a)(i)(A) and four of the eight years required in R156-22-302c(3)(a)(i)(B) shall comply with the following:

(i) Two years of experience should be specific to field surveying with actual "hands on" surveying, including all of the following:

- (A) operation of various instrumentation;
- (B) review and understanding of plan and plat data;
- (C) public land survey systems;
- (D) calculations;
- (E) traverse;
- (F) staking procedures;
- (G) field notes and manipulation of various forms of data encountered in horizontal and vertical studies; and

(ii) Two years of experience should be specific to office surveying, including all of the following:

- (A) drafting (includes computer plots and layout);
- (B) reduction of notes and field survey data;
- (C) research of public records;
- (D) preparation and evaluation of legal descriptions; and
- (E) preparation of survey related drawings, plats and record of survey maps.

(c) The remaining qualifying experience required in R156-22-302c(3)(a)(i)(B) shall include any aspects of the practice of land surveying under the supervision of a licensed professional land surveyor in accordance with Subsection 58-22-102(16).

(d) Full or part time employment for periods of time less than ten weeks in length will not be considered as qualifying experience.

(e) The supervisor shall provide to the applicant the certificate of qualifying experience in a sealed envelope with the supervisor's land surveyor seal stamped across the seal flap of the envelope, which the applicant shall submit with the application for licensure.

(f) In the event the supervisor is unavailable or refuses to provide a certification of qualifying experience, the applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board which shall demonstrate that the work was land surveying related work and was competently performed and the accumulated experience is sufficient for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(g) The supervisor shall be engaged in a work setting in which the supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised

(h) The applicant shall submit at least one additional verification of the qualifying experience from persons other than the supervisor, which must be from a licensed professional land surveyor who has personal knowledge of the applicant's knowledge, ability and competence to practice professional land surveying.

**R156-22-302d. Qualifications for Licensure - Examination Requirements.**

(1) Examination Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(f), the examination requirements for licensure as a professional engineer are defined, clarified or established as the following:

(i) the NCEES Fundamentals of Engineering (FE) Examination with a passing score as established by the NCEES except that an applicant who has completed an undergraduate degree from an EAC/ABET accredited program and has completed a Ph.D. or doctorate in engineering from an institution that offers EAC/ABET undergraduate programs in the Ph.D. field of engineering is not required to take the FE examination;

(ii) ~~[a]~~the NCEES Principles and Practice of Engineering (PE) Examination other than Structural II with a passing score as established by the NCEES; and

(iii) ~~[as part of the application for license,]~~pass all questions on the open book, take home Utah Law and Rules Examination, which is included as part of the application for licensure forms.

(b) If an applicant was approved by the Utah Division of Occupational and Professional Licensing to take the examinations required for licensure as an engineer under prior Utah statutes and rules and did take and pass all examinations required under such prior rules, the prior examinations will be acceptable to qualify for reinstatement of licensure rather than the examinations specified under Subsection R156-22-302d(1)(a).

~~[(b)]~~(c) An applicant must have successfully completed the qualifying experience requirements set forth in Subsection R156-22-302c(1), and have successfully completed the education requirements set forth in Subsection R156-22-302b(1) before being eligible to sit for the NCEES PE examination.

~~[(e)]~~(d) The admission criteria to sit for the NCEES FE examination is set forth in Section 58-22-306.

(2) Examination Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(f), the examination requirements for licensure as a professional structural engineer are defined, clarified, or established as the following:

(i) the NCEES Fundamentals of Engineering Examination (FE) with a passing score as established by the NCEES;

(ii) the NCEES Structural I and Structural II Examinations with a passing score as established by the NCEES; and

(iii) as part of the application for license, pass all questions on the open book, take home Utah Law and Rules Examination.

(b) An applicant must have successfully completed the experience requirements set forth in Subsection R156-22-302c(2) before being eligible to sit for the NCEES Structural II Examination~~[(~~g~~)].~~

(3) Examination Requirements - Professional Land Surveyor.

(a) In accordance with Subsection 58-22-302(3)(g), the examination requirements for licensure as a professional land surveyor are established as the following:

(i) the NCEES Fundamentals of Land Surveying (FLS) Examination with a passing score as established by the NCEES;

(ii) the NCEES Principles and Practice of Land Surveying (PLS) Examination with a passing score as established by the NCEES; and

(iii) the Utah Local Practice Examination with a passing score of at least 75.

(b) An applicant must have successfully completed the education and qualifying experience requirements set forth in Subsections R156-22-302b(2) and 302c(3) before being eligible to sit for the NCEES PLS examination.

(4) Examination Requirements for Licensure by Endorsement.

In accordance with Subsection 58-22-302(4)(d)(ii), the examination requirements for licensure by endorsement are established as follows:

(a) Professional Engineer: An applicant for licensure as a professional engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(1) except that the board may waive one or more of the following examinations under the following conditions:

(i) the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed;

(ii) the NCEES PE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application, who has been licensed for 20 years preceding the date of the license application, and who was not required to pass the NCEES PE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(b) Professional Structural Engineer: An applicant for licensure as a professional structural engineer by endorsement shall comply with the examination requirements in Subsection R156-22-302d(2) except that the board may waive the NCEES FE Examination for an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FE Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

(c) Professional Land Surveyor: An applicant for licensure as a professional land surveyor by endorsement shall comply with the examination requirements in Subsection R156-22-302d(3) except that the board may waive either the NCEES FLS Examination or the NCEES PLS Examination or both to an applicant who is a principal for five of the last seven years preceding the date of the license application and who was not required to pass the NCEES FLS Examination or the PLS Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed.

**R156-22-304. Continuing Education for Professional Engineers, Professional Structural Engineers and Professional Land Surveyors.**

In accordance with Subsection 58-22-303(2) and Section 58-22-304, the qualifying continuing professional education standards for professional engineers, professional structural engineers and professional land surveyors are established as follows:

(1) During each two year period ending on December 31 of each even numbered year, a licensed professional engineer, professional structural engineer and professional land surveyor shall be required to complete not less than 24 hours of qualified professional education directly related to the licensee's professional practice.

(2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a professional engineer, professional structural engineer, or professional land surveyor;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of 12 hours per two year period may be recognized for teaching in a college or university or for teaching qualified continuing professional education courses in the field of professional engineering, professional structural engineering or professional land surveying, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of four hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of professional engineering, professional structural engineering or professional land surveying and submitted for publication; and

(d) a maximum of eight hours per two year period may be recognized at the rate of one hour for each hour served on committees or in leadership roles in any state, national or international organization for the development and improvement of the profession of professional engineering, professional structural engineering or professional land surveying but no more than four of the eight hours may be obtained from such activity in any one organization;

(e) unlimited hours may be recognized for continuing education that is provided via Internet or through home study courses provided the course verifies registration and participation in

the course by means of a test which demonstrates that the participant has learned the material presented.

(5) A licensee shall be responsible for maintaining records of completed qualified continuing professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 24 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 12 hours of qualified continuing professional education into the next two year period.

(7) A licensee who documents they are engaged in full time activities or is subjected to circumstances which prevent that licensee from meeting the continuing professional education requirements established under this section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.

(8) Any licensee who fails to timely complete the continuing education required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

(9) Any applicant for reinstatement who was not in compliance with the continuing education requirement at the time of the expiration of licensure shall be required to complete 24 hours of continuing education complying with these rules within two years prior to the date of application for reinstatement of licensure.

**R156-22-305. Inactive Status.**

(1) A person currently licensed and in good standing as a professional engineer, professional structural engineer or professional land surveyor may apply for a transfer of that license to inactive status if:

(a)(i) the licensee is at least 60 years of age;

(ii) the licensee is disabled; or

(iii) the division finds other good cause for believing that the licensee will not return to the practice as a professional engineer, professional structural engineer or professional land surveyor;

(b) the licensee makes application for transfer of status and registration and pays a registration fee determined by the department under Section 63-38-3.2; and

(c) the licensee, on application for transfer, certifies that he will not engage in the practice for which a license is required while on inactive status.

(2) Each inactive license shall be issued in accordance with the two-year renewal cycle established by Section R156-1-308a.

(3) Inactive status licensees may not engage in practice for which a license is required.

(4) Inactive status licensees are not required to fulfill the continuing professional education under these rules.

(5) Each inactive status licensee is responsible for renewing his inactive license according to division procedures.

(6) An inactive status licensee may reinstate his license to active status by:

(a) submitting an application in a form prescribed by the division;

(b) paying a fee determined by the department under Section 63-38-3.2; and

(c) showing evidence of having completed the continuing professional education requirement established in Subsection R156-22-304(9).

**R156-22-501. Administrative Penalties - Unlawful Conduct.**

In accordance with Subsections 58-1-501, 58-1-501(1)(a) through (d), 58-22-501 and 58-22-503, unless otherwise ordered by the presiding officer, the following fine schedule shall apply.

(1) Engaging in unlicensed practice or using any title that would cause a reasonable person to believe the user of the title is licensed under this chapter.

First Offense: \$[400]800

Second Offense: \$[1,000]1,600

(2) Engaging in, or representing oneself as engaged in the practice of professional engineering or land surveying as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.

First Offense: \$[400]800

Second Offense: \$[1,000]1,600

(3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.

First Offense: \$[400]1,000

Second Offense: \$[1,000]2,000

(4) Knowingly employing any person to practice under this chapter who is not licensed to do so.

First Offense: \$[600]1,000

Second Offense: \$[1,200]2,000

(5) Knowingly permits any person to use his or her license except as permitted by law.

First Offense: \$[600]1,000

Second Offense: \$[1,200]2,000

(6) [For third and subsequent offenses a fine of up to \$2,000 may be assessed for each day of continued offense as provided in Subsection 58-22-503(1)(i)(iii).] Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount.

(7) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(8) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(9) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

**R156-22-601. Seal Requirements.**

(1) In accordance with Section 58-22-601, all final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats prepared by the licensee or prepared under the supervision of the licensee, shall be sealed in accordance with the following:

(a) Each seal shall be a circular seal, 1-1/2 inches minimum diameter.

(b) Each seal shall include the licensee's name, license number, "State of Utah", and "Professional Engineer", [~~"Licensed Professional Engineer", "Registered Professional Engineer", "Certified Structural Engineer", "Structural Engineer", "Licensed Professional Structural Engineer",~~] "Professional Structural

Engineer", or [~~"Land Surveyor",~~] "Professional Land Surveyor"[~~;~~ "~~Licensed Professional Land Surveyor" or "Licensed Land Surveyor";~~] as appropriate.

(c) Each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint.

(d) Each original set of final plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet.

(e) A seal may be a wet stamp, embossed, or electronically produced.

(f) Copies of the original set of plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats which contain the original seal, original signature and date is permitted, if the seal, signature and date is clearly recognizable.

(2) A person who qualifies for and uses the title of professional engineer intern is not permitted to use a seal.

**KEY: engineers, surveyors, professional land surveyors, professional engineers**

**Date of Enactment or Last Substantive Amendment: [~~March 1, 2005]~~2006**

**Notice of Continuation: January 13, 2003**

**Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)**

◆ ————— ◆

**Commerce, Occupational and  
Professional Licensing  
R156-74  
Certified Shorthand Reporters  
Licensing Act Rules**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28428

FILED: 12/20/2005, 12:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Certified Court Reporters Licensing Board are proposing amendments to update the title of the rule and to clarify continuing education requirements for certified court reporters who engage in voice reporting as a result of statute amendments made to Title 58, Chapter 74, in S.B. 123 during the 2004 session of the Legislature. (DAR NOTE: S.B. 123 (2004) is found at UT L 2004 Ch 77, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, the title of "certified shorthand reporter" has been updated to "certified court reporter". In Section R156-74-103, updated statute citation. In Section R156-74-304, added and incorporated by reference the National Verbatim Reporters Association standards for the continuing education requirement for renewal of a certified court reporter voice reporter license which are effective January 1, 2006.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-74-101, and Subsections 58-74-303(2), 58-1-106(1)(a), and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds the January 1, 2006, National Verbatim Reporters Association Continuing Education Handbook

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur costs of approximately \$50 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: Proposed rule amendments do not apply to local governments. The proposed amendments only apply to licensed certified court reporters and those individuals who may apply for licensure as a certified court reporter.

❖ OTHER PERSONS: The Division anticipates no costs or savings to licensed certified court reporters or persons who may apply for licensure as a certified court reporter. The statute, Title 58, Chapter 74, requires continuing education as a condition of renewal of licensure. These proposed amendments are only clarifying through what association standards the continuing education hours must comply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no costs or savings to licensed certified court reporters or persons who may apply for licensure as a certified court reporter. The statute, Title 58, Chapter 74, requires continuing education as a condition of renewal of licensure. These proposed amendments are only clarifying through what association standards the continuing education hours must comply.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing is pursuant to statutory amendments renaming the umbrella statute and establishing an additional classification for voice reporters. No fiscal impact to businesses is anticipated beyond those already addressed by the statutory change. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at [cormond@utah.gov](mailto:cormond@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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-74. Certified [Shorthand]Court Reporters Licensing Act Rules.**

**R156-74-101. Title.**

These rules shall be known as the "Certified [Shorthand]Court Reporters Licensing Act Rules."

**R156-74-103. Authority.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 74.

**R156-74-304. Continuing Education.**

(1) In accordance with Subsection 58-74-303(2), the standards for the continuing education requirement for renewal of a certified [shorthand]court reporter shorthand reporter license shall be the standards established by the National Court Reporters Association, Council of the Academy of Professional Reporters Continuing Education Program, revised October 1, 1998, which is hereby adopted and incorporated by reference.

(2) In accordance with Subsection 58-74-303(2), the requirements and standards for the continuing education requirement for renewal of a certified court reporter voice reporter license shall be the standards established by the National Verbatim Reporters Association, Council of the Academy of Professional Reporters Continuing Education Program, effective January 1, 2006, which is hereby adopted and incorporated by reference.

**KEY:** court reporting, licensing, shorthand reporter[\*], certified court reporter

**Date of Enactment or Last Substantive Amendment:** [~~March 18, 1999~~]2006

**Notice of Continuation:** February 2, 2004

**Authorizing, and Implemented or Interpreted Law:** 58-74-101; 58-74-303(2); 58-1-106(1)(a); 58-1-202(1)(a)



Education, Administration

**R277-602**

Special Needs Scholarships - Funding  
and Procedures

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28446

FILED: 01/03/2006, 16:31

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide an appeal process for a parent or legal guardian of an eligible student to appeal any final

administrative decision regarding the Special Needs Scholarship.

SUMMARY OF THE RULE OR CHANGE: The rule provides new definitions including "Appeal", "Final administrative action", and also defines the "Appeals Committee". Additionally, the amended rule explains the appeals process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-707

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to the state budget. All expenses of appeals committee members for any expected number of appeals, would be absorbed by the Utah State Office of Education budget. Of the 152 scholarships granted in FY 2006, there were only 8 appeals.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings for local government because the appeal process would take place at the state level.

❖ OTHER PERSONS: There may be minimal costs for individuals bringing appeals. The proposed process is streamlined and user-friendly so that extensive expenses are unnecessary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be minimal costs for individuals bringing appeals. The process is streamlined and user-friendly so that extensive expenses are unnecessary.

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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: Carol Lear, Director, 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. "Appeal" for purposes of the rule means an opportunity to discuss/contest a final administrative decision consistent with and expressly limited to the procedures of this rule.

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

~~[C]~~D. "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]~~E. "Board" means the Utah State Board of Education.

~~[E]~~F. "Days" means school days unless specifically designated otherwise in this rule.

~~[F]~~G. "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]~~H. "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]~~would be provided ~~[to]~~were the student ~~[at the specialized private]~~enrolled in a public school.

~~[H]~~I. "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.

J. "Final administrative action" for purposes of this rule means the concluding action under Section 53A-1a-701 through 53A-1a-710 and this rule.

~~[I]~~K. "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 R277-602-1[F]M; and  
 (b) has sufficient funds to maintain operations for the full school year.

[F]L. "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]M. "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.

[E]N. "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]O. "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.

P. "Special Needs Scholarship Appeals Committee (Appeals Committee)" means a committee comprised of:

(1) the special needs scholarship coordinator;

(2) the USOE Special Education Director; and

(3) a Board-designated special education advocate.

[N]Q. "USOE" means the Utah State Office of Education.

[Q]R. "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](http://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~~ would be provided ~~to~~ were the child enrolled in a public school 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-706(1)(c)(i).

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.

#### **R277-602-8. Special Needs Scholarship Appeals.**

A. A parent or legal guardian of an eligible student or a parent or legal guardian of a prospective eligible student may appeal any final administrative decision under this rule.

B. The Appeals Committee may not grant an appeal contrary to the statutory provisions of Section 53A-1a-701 through 53A-1a-710.

C. An appeal shall be submitted in writing to the USOE Special Needs Scholarship Coordinator at: Utah State Office of Education, 250 East 500 South, P.O. Box 144200, Salt Lake City, UT 84114-4200.

(1) The appeal opportunity is expressly limited to a written appeal.

(2) Appellants have no right to additional elements of due process beyond the specific provisions of this rule.

(3) Nothing in the appeals process established under R277-602-8 shall be construed to limit, replace or adversely affect parental appeal rights available under IDEA.

D. Appeals shall be made within 15 days of written notification of the final administrative decision.

E. Appeals shall be considered by the Appeals Committee within 15 days of receipt of the written appeal.

F. The decision of the Appeals Committee shall be transmitted to parents no more than ten days following consideration by the Appeals Committee.

G. Appeals shall be finalized as expeditiously as possible in the joint interest of schools and students involved.

H. The Appeals Committee's decision is the final administrative action.

**KEY: special needs students, scholarships**

**Date of Enactment or Last Substantive Amendment: [~~October 5, 2005~~2006]**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1a-706(5)(b); 53A-3-410(6)(i)(c); 53A-1a-707; 53A-1-401(3)**



## Tax Commission, Administration **R861-1A-37** Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 28430

FILED: 12/21/2005, 11:36

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-1-404 allows the Tax Commission to promulgate a rule to provide for the sharing of information gathered from returns with the federal, state, and local governments. The statutes give us discretionary rulemaking authority to promulgate a rule to share information with other political entities and there is a need to share information.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment allows the Tax Commission to share information gathered from returns with other government entities if those entities grant substantially similar privileges to this state.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any costs or savings would have been taken in to account under S.B. 163 (2004). (DAR NOTE:

S.B. 163 (2004) is found at UT L 2004 Ch 294, and was effective 03/23/2004.)

❖ LOCAL GOVERNMENTS: None--Any costs or savings would have been taken in to account under S.B. 163 (2004).

❖ OTHER PERSONS: None--Any costs or savings would have been taken in to account under S.B. 163 (2004).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment allows the state to share property tax commercial information with federal, state, and local governments that share property tax commercial information with the state.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses since this amendment applies to governments. Pam Hendrickson, Chairman

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

TAX COMMISSION  
ADMINISTRATION  
210 N 1950 W  
SALT LAKE CITY UT 84134-0002, 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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: Pam Hendrickson, Commission Chair

## **R861. Tax Commission, Administration.**

### **R861-1A. Administrative Procedures.**

#### **R861-1A-37. Provisions Relating to Disclosure of Commercial Information Pursuant to Utah Code Ann. Section 59-1-404.**

[A-](1) The provisions of this rule apply to the disclosure of commercial information under Section 59-1-404. For disclosure of information other than commercial information, see rule R861-1A-12.

[B-](2) For purposes of Section 59-1-404, "assessed value of the property" includes any value proposed for a property.

[C-](3) For purposes of Subsection 59-1-404(2), "disclosure" does not include the issuance by the commission of a decision, order, or private letter ruling containing commercial information to a:

[1-](a) named party of a decision or order;

[2-](b) party requesting a private letter ruling; or

[3-](c) designated representative of a party described in [C-1-](3)(a) or [C-2-](3)(b).

[D-](4) For purposes of Subsection 59-1-404(6), "published decision" does not include the issuance by the commission of a

decision, order, or private letter ruling containing commercial information to a:

[1-](a) named party of a decision or order;

[2-](b) party requesting a private letter ruling; or

[3-](c) designated representative of a party described in [D-1-](4)(a) or [D-2-](4)(b).

[E-](5) Information that may be disclosed under Section 59-1-404(3) includes:

[1-](a) the following information related to the property's tax exempt status:

[a-](i) information provided on the application for property tax exempt status;

[b-](ii) information used in the determination of whether a property tax exemption should be granted or revoked; and

[e-](iii) any other information related to a property's property tax exemption;

[2-](b) the following information related to penalty or interest relating to property taxes that the commission or county legislative body determines should be abated:

[a-](i) the amount of penalty or interest that is abated;

[b-](ii) information provided on an application or request for abatement of penalty or interest;

[e-](iii) information used in the determination of the abatement of penalty or interest; and

[4-](iv) any other information related to the amount of penalty or interest that is abated; and

[3-](c) the following information related to the amount of property tax due on property:

[a-](i) the amount of taxes refunded or deducted as an erroneous or illegal assessment under Section 59-2-1321;

[b-](ii) information provided on an application or request that property has been erroneously or illegally assessed under Section 59-2-1321; and

[e-](iii) any other information related to the amount of taxes refunded or deducted under [3-a-](5)(c)(i).

[F-1-](6)(a) Except as provided in [F-2-](6)(b), commercial information disclosed during an action or proceeding may not be disclosed outside the action or proceeding by any person conducting or participating in the action or proceeding.

[2-](b) Notwithstanding [F-1-](6)(a), commercial information contained in a decision issued by the commission may be disclosed outside the action or proceeding if all of the parties named in the decision agree in writing to the disclosure.

[G-](7) The commission may disclose commercial information in a published decision as follows.

[1-](a) If the property taxpayer that provided the commercial information does not respond in writing to the commission within 30 days of the decision's issuance, requesting that the commercial information not be published and identifying the specific commercial information the taxpayer wants protected, the commission may publish the entire decision.

[2-](b) If the property taxpayer that provided the commercial information indicates to the commission in writing the specific commercial information that the taxpayer wants protected, the commission may publish a version of the decision that contains commercial information not identified by the taxpayer under [G-1-](7)(a).

(8) The commission may share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these

political subdivisions, or the federal government grant substantially similar privileges to this state.

**KEY:** developmentally disabled, grievance procedures, taxation, disclosure requirements

Date of Enactment or Last Substantive Amendment: ~~[October 19, 2004]~~2006

Notice of Continuation: April 22, 2002

Authorizing, and Implemented or Interpreted Law: 59-1-404



Tax Commission, Property Tax  
**R884-24P-19**  
 Appraiser Designation Program  
 Pursuant to Utah Code Ann. Sections  
 59-2-701 and 59-2-702

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28432

FILED: 12/21/2005, 16:12

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment makes numerous technical changes, as well as updating the name of the body that sanctions appraiser training courses.

SUMMARY OF THE RULE OR CHANGE: This amendment updates the name of the body that sanctions appraiser training courses; and makes numerous technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-701 and 59-2-702

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment updates the name of a governing body and makes numerous technical changes which does not have any costs for the state budget.

❖ LOCAL GOVERNMENTS: None--The proposed amendment updates the name of a governing body and makes numerous technical changes which does not have any costs for local governments.

❖ OTHER PERSONS: None--The proposed amendment updates the name of a governing body and makes numerous technical changes which does not have any costs for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment updates the name of a governing body and makes numerous technical changes which does not have any cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses. Pam Hendrickson, Chairman

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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: Pam Hendrickson, Commission Chair

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.**

~~[A-](1)~~ ~~["State Licensed Appraiser", "State Certified General Appraiser," and "State Certified Residential Appraiser"]~~ "State certified general appraiser," "state certified residential appraiser," and "state licensed appraiser" are as defined in Section 61-2b-2.

~~[B-](2)~~ The ad valorem training and designation program consists of several courses and practica.

~~[4-](a)~~ Certain courses must be sanctioned by either the [International Association of Assessing Officers (IAAO)] Appraiser Qualification Board of the Appraisal Foundation (AOB) or the Western States Association of Tax Administrators (WSATA).

~~[2-](b)~~ ~~[Most courses are one week in duration, with an examination held on the final day.]~~ The courses comprising the basic designation program are:

~~[a)](i)~~ Course A - Assessment Practice in Utah;

~~[b)](ii)~~ Course B - Fundamentals of Real Property Appraisal ~~[(IAAO 101)]~~;

~~[e)](iii)~~ Course C - Mass Appraisal of Land;

~~[d)](iv)~~ Course D - Building Analysis and Valuation;

~~[e)](v)~~ Course E - Income Approach to Valuation ~~[(IAAO 102)]~~;

~~[f)](vi)~~ Course G - Development and Use of Personal Property Schedules;

~~[g)](vii)~~ Course H - Appraisal of Public Utilities and Railroads (WSATA); and

~~[h)](viii)~~ Course J - Uniform Standards of Professional Appraisal Practice ~~[(USPAP)]~~ [(AOB)].

~~[3-](c)~~ The Tax Commission may allow equivalent appraisal education to be submitted in lieu of Course B, Course E, and Course J.

~~[C-](3)~~ Candidates must attend 90 percent of the classes in each course and pass the final examination for each course with a grade of 70 percent or more to be successful.

~~[D-](4)~~ There are four recognized ad valorem designations: ~~[Ad Valorem Residential Appraiser, Ad Valorem General Real~~

~~Property Appraiser, Ad Valorem Personal Property Auditor/Appraiser, and Ad Valorem Centrally Assessed Valuation Analyst]~~ ad valorem residential appraiser, ad valorem general real property appraiser, ad valorem personal property auditor/appraiser, and ad valorem centrally assessed valuation analyst.

[1-](a) These designations are granted only to individuals working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors.

[2-](b) An assessor, county employee, or state employee must hold the appropriate designation to value property for ad valorem taxation purposes.

[E-](5) Ad ~~[Valorem Residential Appraiser]~~ valorem residential appraiser.

[1-](a) To qualify for this designation, an individual must:

[a-](i) successfully complete Courses A, B, C, D, and J;

[b-](ii) successfully complete a comprehensive residential field practicum; and

[e-](iii) attain and maintain state licensed or state certified appraiser status.

[2-](b) Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.

[F-](6) Ad ~~[Valorem General Real Property Appraiser]~~ valorem general real property appraiser.

[1-](a) In order to qualify for this designation, an individual must:

[a-](i) successfully complete Courses A, B, C, D, E, and J;

[b-](ii) successfully complete a comprehensive field practicum including residential and commercial properties; and

[e-](iii) attain and maintain state licensed or state certified appraiser status.

[2-](b) Upon designation, the appraiser may value all types of locally assessed real property for ad valorem taxation purposes.

[G-](7) Ad ~~[Valorem Personal Property Auditor/Appraiser]~~ valorem personal property auditor/appraiser.

[1-](a) To qualify for this designation, an individual must successfully complete:

[a-](i) Courses A, B, G, and J; and

[b-](ii) a comprehensive auditing practicum.

[2-](b) Upon designation, the auditor/appraiser may value locally assessed personal property for ad valorem taxation purposes.

[H-](8) Ad ~~[Valorem Centrally Assessed Valuation Analyst]~~ valorem centrally assessed valuation analyst.

[1-](a) In order to qualify for this designation, an individual must:

[a-](i) successfully complete Courses A, B, E, H, and J;

[b-](ii) successfully complete a comprehensive valuation practicum; and

[e-](iii) attain and maintain state licensed or state certified appraiser status.

[2-](b) Upon designation, the analyst may value centrally assessed property for ad valorem taxation purposes.

[1-](9) If a candidate fails to receive a passing grade on a final examination, one re-examination is allowed. If the re-examination is not successful, the individual must retake the failed course. The cost to retake the failed course will not be borne by the Tax Commission.

[1-](10) A practicum involves the appraisal or audit of selected properties. The candidate's supervisor must formally request that the Property Tax Division administer a practicum.

[1-](a) Emphasis is placed on those types of properties the candidate will most likely encounter on the job.

[2-](b) The practicum will be administered by a designated appraiser assigned from the Property Tax Division.

[K-](11) An appraiser trainee referred to in Section 59-2-701 shall be designated an ad valorem associate if the appraiser trainee:

[1-](a) has completed all Tax Commission appraiser education and practicum requirements for designation under ~~[E-, F-, and H-]~~ Subsections (5), (6), and (8); and

[2-](b) has not completed the requirements for licensure or certification under Title 71, Chapter 2b, Real Estate Appraiser Licensure and Certification.

[L-](12) An individual holding a specified designation can qualify for other designations by meeting the additional requirements outlined above.

[M-](13) Maintaining designated status requires completion of 28 hours of Tax Commission approved classroom work every two years.

[N-](14) Upon termination of employment from any Utah assessment jurisdiction, or if the individual no longer works primarily as an appraiser, review appraiser, valuation auditor, or analyst/administrator in appraisal matters, designation is automatically revoked.

[1-](a) Ad valorem designation status may be reinstated if the individual secures employment in any Utah assessment jurisdiction within four years from the prior termination.

[2-](b) If more than four years elapse between termination and rehire, and:

[a-](i) the individual has been employed in a closely allied field, then the individual may challenge the course examinations. Upon successfully challenging all required course examinations, the prior designation status will be reinstated; or

[b-](ii) if the individual has not been employed in real estate valuation or a closely allied field, the individual must retake all required courses and pass the final examinations with a score of 70 percent or more.

[O-](15) All appraisal work performed by Tax Commission designated appraisers shall meet the standards set forth in section 61-2b-27.

[P-](16) If appropriate Tax Commission designations are not held by assessor's office personnel, the appraisal work must be contracted out to qualified private appraisers. An assessor's office may elect to contract out appraisal work to qualified private appraisers even if personnel with the appropriate designation are available in the office. If appraisal work is contracted out, the following requirements must be met[-]:

[1-](a) The private sector appraisers contracting the work must hold the ~~[State Certified Residential Appraiser or State Certified General Appraiser]~~ state certified residential appraiser or state certified general appraiser license issued by the Division of Real Estate of the Utah Department of Commerce. Only ~~[State Certified General Appraisers]~~ state certified general appraisers may appraise nonresidential properties.

[2-](b) All appraisal work shall meet the standards set forth in Section 61-2b-27.

[Q-](17) The completion and delivery of the assessment roll required under Section 59-2-311 is an administrative function of the elected assessor.

~~[1-]~~(a) There are no specific licensure, certification, or educational requirements related to this function.

~~[2-]~~(b) An elected assessor may complete and deliver the assessment roll as long as the valuations and appraisals included in the assessment roll were completed by persons having the required designations.

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment: ~~October 13, 2005~~2006**  
**Notice of Continuation: April 5, 2002**  
**Authorizing, and Implemented or Interpreted Law: 59-2-701; 59-2-702**



**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends February 14, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through May 15, 2006, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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**The Changes in Proposed Rules Begin on the Following Page.**

**Commerce, Occupational and  
Professional Licensing  
R156-37  
Utah Controlled Substances Act Rules**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 28310  
Filed: 01/03/2006, 11:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After further review by the Division, one addition is made to the proposed rule amendments.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-37-603(4), the following wording is being added: "unless the prescriber determines there is a valid medical reason to allow an earlier dispensing date". (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the November 15, 2005, issue of the Utah State Bulletin, on page 8. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a), 58-37-6(1)(a), and 58-37-7.5(7)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No additional costs or savings are anticipated beyond those previously identified in the prior proposed rule amendment filing.
- ❖ LOCAL GOVERNMENTS: No additional costs or savings are anticipated beyond those previously identified in the prior proposed rule amendment filing.
- ❖ OTHER PERSONS: No additional costs or savings are anticipated beyond those previously identified in the prior proposed rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs or savings are anticipated beyond those previously identified in the prior proposed rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change in proposed rule further amends Subsection R156-37-603(4) to conform with provisions in Title 58, Chapter 37. No fiscal impact to businesses is anticipated as a result of this amendment. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Diana Baker at the above address, by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at dbaker@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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-37. Utah Controlled Substances Act Rules.**

.....

**R156-37-603. Restrictions Upon the Prescription, Dispensing and Administration of Controlled Substances.**

(1) A practitioner may prescribe or administer the Schedule II controlled substance cocaine hydrochloride only as a topical anesthetic for mucous membranes in surgical situations in which it is properly indicated and as local anesthetic for the repair of facial and pediatric lacerations when the controlled substance is mixed and dispensed by a registered pharmacist in the proper formulation and dosage.

(2) A practitioner shall not prescribe or administer a controlled substance without taking into account the drug's potential for abuse, the possibility the drug may lead to dependence, the possibility the patient will obtain the drug for a nontherapeutic use or to distribute to others, and the possibility of an illicit market for the drug.

(3) When writing a prescription for a controlled substance, each prescription shall contain only one controlled substance per prescription form and no other legend drug or prescription item shall be included on that form.

(4) In accordance with Subsection 58-37-6(7)(f)(v)(D), unless the prescriber determines there is a valid medical reason to allow an earlier dispensing date, the dispensing date of a second or third prescription shall be no less than 30 days from the dispensing date of the previous prescription, to allow for receipt of the subsequent prescription before the previous prescription runs out.

(5) If a practitioner fails to document his intentions relative to refills of controlled substances in Schedules III through V on a prescription form, it shall mean no refills are authorized. No refill is permitted on a prescription for a Schedule II controlled substance.

(6) Refills of controlled substance prescriptions shall be permitted for the period from the original date of the prescription as follows:

(a) Schedules III and IV for six months from the original date of the prescription; and

(b) Schedule V for one year from the original date of the prescription.

(7) No refill may be dispensed until such time has passed since the date of the last dispensing that 80% of the medication in the previous dispensing should have been consumed if taken according to the prescriber's instruction.

(8) No prescription for a controlled substance shall be issued or dispensed without specific instructions from the prescriber on how and when the drug is to be used.

(9) Refills after expiration of the original prescription term requires the issuance of a new prescription by the prescribing practitioner.

(10) Each prescription for a controlled substance and the number of refills authorized shall be documented in the patient records by the prescribing practitioner.

(11) A practitioner shall not prescribe or administer a Schedule II controlled stimulant for any purpose except:

(a) the treatment of narcolepsy as confirmed by neurological evaluation;

(b) the treatment of abnormal behavioral syndrome, attention deficit disorder, hyperkinetic syndrome, or related disorders;

(c) the treatment of drug-induced brain dysfunction;

(d) the differential diagnostic psychiatric evaluation of depression;

(e) the treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as tricyclic antidepressants or MAO inhibitors;

(f) in the terminal stages of disease, as adjunctive therapy in the treatment of chronic severe pain or chronic severe pain accompanied by depression;

(g) the clinical investigation of the effects of the drugs, in which case the practitioner shall submit to the division a written investigative protocol for its review and approval before the investigation has begun. The investigation shall be conducted in strict compliance with the investigative protocol, and the practitioner shall, within 60 days following the conclusion of the investigation, submit to the division a written report detailing the findings and conclusions of the investigation; or

(h) in treatment of depression associated with medical illness after due consideration of other therapeutic modalities.

(12) A practitioner may prescribe, dispense or administer a Schedule II controlled stimulant when properly indicated for any purpose listed in Subsection (11), provided that all of the following conditions are met:

(a) before initiating treatment utilizing a Schedule II controlled stimulant, the practitioner obtains an appropriate history and physical examination, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized;

(b) the practitioner shall not prescribe, dispense or administer any Schedule II controlled stimulant when he knows or has reason to believe that a recognized contraindication to its use exists;

(c) the practitioner shall not prescribe, dispense or administer any Schedule II controlled stimulant in the treatment of a patient who he knows or should know is pregnant; and

(d) the practitioner shall not initiate or shall discontinue prescribing, dispensing or administering all Schedule II controlled stimulants immediately upon ascertaining or having reason to believe that the patient has consumed or disposed of any controlled stimulant other than in compliance with the treating practitioner's directions.

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**KEY: controlled substances, licensing**

**Date of Enactment or Last Substantive Amendment: [2005]2006**

**Notice of Continuation: May 9, 2002**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-37-6(1)(a); 58-37-7.5(7)**



## Health, Health Care Financing, Coverage and Reimbursement Policy

### R414-2A

#### Inpatient Hospital Services

#### NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 28258

Filed: 12/23/2005, 11:58

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking is necessary to clarify Medicaid policy regarding patient readmissions, reimbursement methodology, reimbursement for physician services, and hyperbaric oxygen therapy, and to implement Medicaid policy into rule pursuant to recent legislation (H.B. 126 (2003)) found in Subsection 26-18-3(2)(a). It is also necessary to change the definition of "Other Practitioner of the Healing Arts" as public comment correctly pointed out that osteopathic surgeons and physicians are defined as "physicians" under Utah law. (DAR NOTE: H.B. 126 (2003) is found at UT L 2003 Ch 324, and was effective 05/05/2003.)

**SUMMARY OF THE RULE OR CHANGE:** Subsection R414-2A-9(5) is amended to state that "cost effectiveness" may play a role in determining whether to combine Diagnosis Related Group (DRG) payments for patient readmissions, but is not a primary factor. Also, in Subsection R414-2A-2(8), the phrase "doctor of osteopathy" is removed from the definition of "Other Practitioner of the Healing Arts" because osteopathic surgeons and physicians are defined as "physicians" under Utah law. In addition, Subsection R414-2A-7(7) clarifies service coverage for hyperbaric oxygen therapy and Subsection R414-2A-9(1) clarifies reimbursement methodology under the DRG system. Finally, Subsection R414-2A-7(10) is amended to clarify that physician services are not reimbursed as payment under the DRG. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenactment that was published in the October 15, 2005, issue of the Utah



State Bulletin, on page 11. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3, and 42 CFR 440.10

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no impact to the state budget associated with this rulemaking because it only changes a definition and clarifies Medicaid policy regarding patient readmissions, reimbursement methodology, hyperbaric oxygen therapy, and reimbursement for physician services.
- ❖ LOCAL GOVERNMENTS: There is no impact to local governments as a result of this rulemaking because it only changes a definition and clarifies Medicaid policy regarding patient readmissions, reimbursement methodology, hyperbaric oxygen therapy, and reimbursement for physician services.
- ❖ OTHER PERSONS: There is no impact to other persons as a result of this rulemaking because it only changes a definition and clarifies Medicaid policy regarding patient readmissions, reimbursement methodology, hyperbaric oxygen therapy, and reimbursement for physician services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this rulemaking only changes a definition and clarifies Medicaid policy regarding patient readmissions, reimbursement methodology, hyperbaric oxygen therapy, and reimbursement for physician services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change reflects the ongoing commitment of the Utah Medicaid program to place into rule all standards and policies that impact the public. Impacted providers have had input into these changes. No adverse fiscal impact is anticipated. David N. Sundwall, MD, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@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 02/14/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 02/15/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

#### **R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

##### **R414-2A. Inpatient Hospital Services.**

###### **R414-2A-1. Introduction and Authority.**

This rule defines the scope of inpatient hospital services that are available to Medicaid clients for the treatment of disorders other than mental disease. This rule is authorized under Utah Code 26-18-3 and governs the services allowed under 42 CFR 440.10.

###### **R414-2A-2. Definitions.**

(1) "Admission" means the acceptance of a Medicaid client for inpatient hospital services.

(2) "Diagnosis Related Group (DRG)" is the CMS-coding that determines reimbursement for the resources that a hospital uses to treat a client with a specific diagnosis or medical need and is further described in R414-2A-9 of this rule.

(3) "Hyperbaric Oxygen Therapy" is therapy that places the patient in an enclosed pressure chamber for medical treatment.

(4) "Inpatient" is an individual whose severity of illness requires 24 hours or more of continuous care in a hospital.

(5) "Inpatient Hospital Services" are services that a hospital provides for the care and treatment of inpatients with disorders other than mental illness, under the direction of a physician or other practitioner of the healing arts.

(6) "Leave of Absence" from an inpatient facility is a patient's absence for therapeutic or rehabilitative purposes where the patient does not return by midnight of the same day.

(7) "Observation" means monitoring a patient to evaluate the patient's condition, symptoms, diagnosis, or appropriateness of inpatient admission.

(8) "Other Practitioner of the Healing Arts" means ~~a doctor of osteopathy,~~ a doctor of dental surgery~~[-]~~ or a podiatrist.

(9) "Prepaid Mental Health Plan" means the prepaid, capitated program through which the Department pays contracted community mental health centers to provide all needed inpatient and outpatient mental health services to residents of the community mental health center's catchment area who are enrolled in the plan.

###### **R414-2A-3. Client Eligibility Requirements.**

Inpatient hospital services are available to categorically and medically needy individuals who are under the care of a physician or other practitioner of the healing arts.

###### **R414-2A-4. Hospital Admission Requirements.**

(1) Each hospital providing inpatient services must have a utilization review plan as described in 42 CFR 482.30.

(2) The attending physician or other practitioner of the healing arts must sign a physician acknowledgement statement that meets the requirements of 42 CFR 412.46.

(3) For psychiatric patients, the attending physician must certify and recertify the need for inpatient psychiatric services as described in 42 CFR 441.152.

**R414-2A-5. Prepaid Mental Health Plan.**

A Medicaid client residing in a county for which a prepaid mental health contractor provides mental health services must obtain authorization for inpatient psychiatric services from the prepaid mental health contractor for the client's county of residence.

**R414-2A-6. Service Coverage.**

(1) Inpatient hospital services encompass all medically necessary and therapeutic medical services and supplies that the physician or other practitioner of the healing arts orders that are appropriate for the diagnosis and treatment of a patient's illness.

(2) The Department does not pay for physician services rendered by a non-Medicaid provider.

(3) Diagnostic services performed by the admitting hospital or by an entity wholly owned or operated by the hospital within three days prior to the date of admission to the hospital, are inpatient services.

(4) Medical supplies, appliances, drugs, and equipment required for the care and treatment of a client during an inpatient stay are reimbursed as part of payment under the DRG.

(5) Services associated with pregnancy, labor, and vaginal or C-section delivery are reimbursed as inpatient service as part of payment under the DRG, even if the stay is less than 24 hours.

(6) Services provided to an inpatient that could be provided on an outpatient basis are reimbursed as part of payment under the DRG.

(7) Inpatient hospital psychiatric services are available only to clients not residing in a county covered by a prepaid mental health plan.

**R414-2A-7. Limitations.**

(1) Inpatient admissions for 24 hours or more solely for observation or diagnostic evaluation do not qualify for reimbursement under the DRG system.

(2) Inpatient hospital care for treatment of alcoholism or drug dependency is limited to medical treatment of symptoms associated with drug or alcohol detoxification.

(3) Abortion procedures must first be reviewed and preauthorized by the Department as meeting the requirements of Utah Code 26-18-4 and 42 CFR 441.203.

(4) Sterilization and hysterectomy procedures must first be reviewed and preauthorized by the Department as meeting the requirements of 42 CFR 441, Subpart F.

(5) Organ transplant services are governed by R414-10A, Transplant Services Standards.

(6) Take home supplies, dressings, non-rental durable medical equipment, and drugs are reimbursed as part of payment under the DRG.

(7) Hyperbaric oxygen therapy is limited to service in a hospital facility in which the hyperbaric unit has been accredited or approved by ~~the Joint Commission on Healthcare Organizations or the Undersea and Hyperbaric Medical Society.~~

(8) Inpatient services solely for pain management do not qualify for reimbursement under the DRG system. Pain management is adjunct to other Medicaid services.

(9) Medicaid does not cover inpatient admissions for the treatment of eating disorders.

(10) Physician services provided by a physician who is paid by a hospital are inpatient services reimbursed as part of payment ~~under the DRG~~ billed on a 1500 form. Payment for physician

services provided by providers who are not paid by the hospital is governed by R414-10, Physician Services.

(11) Inpatient rehabilitation services must first be reviewed and preauthorized.

(12) Inpatient psychiatric services not covered by mental health contractual agreements must first be reviewed and preauthorized by the Department to assure that the admission meets the requirements of 42 CFR 412.27 and Part 441, Subpart D.

**R414-2A-8. Coinsurance.**

Each Medicaid client is responsible for a coinsurance payment as established in the Utah State Medicaid Plan and incorporated by reference in R414-1.

**R414-2A-9. Reimbursement Methodology.**

(1) Payments for inpatient hospital services are paid on a prospectively determined amount for each qualifying patient discharge under a Diagnosis Related Group (DRG) system. DRG weights are established to recognize the relative amount of resources consumed to treat a particular type of patient. The DRG classification scheme assigns each hospital patient to one of over 500 categories or DRGs based on the patient's diagnosis, age and sex, surgical procedures performed, complicating conditions, and discharge status. Each DRG is assigned a weighting factor which reflects the quantity and type of hospital services generally needed to treat a patient with that condition. A preset reimbursement is assigned to each DRG. The DRG system allows for outliers for those discharges that have significant variance from the norm.

(2) For purposes of reimbursement, the day of admission is counted as a full day and the day of discharge is not counted.

(3) When a patient receives SNF-level, ICF-level, or other sub-acute care in an acute-care hospital or in a hospital with swing-bed approval, payment is made at the swing-bed rate.

(4) Reimbursement for services in the emergency department is limited to codes and diagnoses that are medically necessary emergency services. The provider manual lists appropriate emergency codes. The provider must list the discharge diagnosis on the claim form as one of the first five diagnoses.

(5) If a patient is readmitted for the same or a similar diagnosis within 30 days of a discharge, the Department may review and evaluate both claims to determine if, based on severity of illness[~~]~~ and intensity of service, [and cost effectiveness,] the claims should be combined into a single DRG payment or paid separately. Cost effectiveness may also be part of this determination but is not a primary factor.

(6) Exceptions to the 30-day readmission policy must still meet the severity of illness requirements for the allowance of a second DRG payment and are limited to:

- (a) pregnancy;
- (b) chemotherapy; and
- (c) hyperbilirubinemia appearing in newborn infants within the first week of life.

(7) The Department pays for physician interpretation of laboratory services separately from the DRG payment. Laboratory technical services are included within the DRG for the inpatient admission.

(8) If an observation stay meets the intensity and severity for inpatient hospitalization and exceeds 24 hours, the patient becomes an inpatient and the observation services are reimbursed as part of payment under the DRG.

**KEY: Medicaid**  
**Date of Enactment or Last Substantive Amendment: 200~~5~~6**  
**Notice of Continuation: November 26, 2002**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-18-3.5**



**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (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.

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### Human Resource Management, Administration **R477-7** Leave

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 28443  
FILED: 12/30/2005, 10:56

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment will implement select provisions of H.B. 213 passed in the 2005 general session of the Utah Legislature, and to accommodate a Utah Supreme Court injunction on the implementation of H.B. 213 as it amends Section 67-19-14.2. This amendment will thus only implement program II as created by H.B. 213 and explained under the summary. This amendment will also clarify provisions governing an employee's return to work. (DAR NOTE: H.B. 213 (2005) is found at UT L 2005 Ch 15, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: H.B. 213 created two categories of sick leave and converted sick leave. Leave earned prior to December 31, 2005, is program I sick leave and converted sick leave. Leave earned after January 1, 2006, is Program II sick leave and converted sick leave. The benefits earned with Program I are different from the benefits earned with program II. Amendments to Section R477-7-5 provide that 25% of converted sick leave will be placed in the employees 401(k) account upon retirement. The remainder will be used to purchase health care premiums if it is program I converted sick leave or will be placed in the Public Employees Health Plan (PEHP) health reimbursement program if it is program II converted sick leave. Amendments

to Subsection R477-7-6(1) require the gradual elimination of the number of years the state will pay for health insurance prior to age 65 from 5 years in 2006 to 0 years in 2011; the placement of 25% of the value of the employees sick leave into a 401(k) account at retirement; and the gradual elimination of the mandatory deduction from the employees sick balance from 480 hours in 2006 to 0 hours in 2011. Remaining amendments to this subsection make it mandatory that sick leave hours remaining after the 401(k) contribution and the deduction shall be used to purchase health insurance premiums and reorder existing language for clarity. Subsection R477-7-6(2) is a new subsection providing for the disposition of leave hours in program II. 25% of the value of those hours shall be contributed into a 401(k) account with the remainder placed into the PEHP health reimbursement program. Amendments to Sections R77-7-13, R477-7-16, and R477-7-17 simply require agencies to comply with appropriate state and federal laws when an employees returns to work from leave of absence without pay, workers' compensation, or long-term disability. Provisions are found throughout the Department of Human Resource Management (DHRM) rules for dealing with the Family Medical Leave Act, the Americans with Disabilities act, the Uniformed Services Employment and Reemployment Rights Act, and other human resource laws.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 67-19-6 and Subsection 67-19-14(2)

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The fiscal note to H.B. 213 estimates a cost to the state budget of \$200,000 in fiscal year 2006 and \$50,000 in fiscal year 2007 because of anticipated early retirements by employees wishing to avoid the discontinuance of some of the benefits prescribed by the bill. After that, the state should realize substantial savings over time as more and more employee sick leave is shifted into the health care

reimbursement program from the purchase of more expensive health insurance premiums.

❖ LOCAL GOVERNMENTS: This rule only affects the executive branch of state government and will have no impact on local governments.

❖ OTHER PERSONS: This rule only affects the executive branch of state government and will have no impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost identified in under the "State budge" above will affect the Utah Retirement System and have little impact on state agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by various provisions of the Utah Personnel Management Act, Title 67, Chapter 19. These provisions limit the provision of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or saving on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no affect on business. Jeff Herring, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Utah Supreme Court injunction was ordered on December 14, 2005, which does not provide DHRM with sufficient time to prepare new rules to implement the portion of H.B. 213 which is not enjoined and which still must be implemented on January 1, 2006. DHRM had prepared a filing to implement the entirety of H.B. 213 on January 1, 2006, but the injunction makes this filing moot. Therefore, this emergency filing is required in order to comply with that portion of the law which must be implemented. This filing will implement program II as intended in the original filing but not program I. The explanation of programs I and II are under the summary of changes above.

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

HUMAN RESOURCE MANAGEMENT  
ADMINISTRATION  
Room 2120 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:

May Chanthapanna or Conroy Whipple at the above address, by phone at 801-537-3081 or 801-538-3067, by FAX at 801-538-3377 or 801-538-3081, or by Internet E-mail at mvang@utah.gov or cwhipple@utah.gov

THIS RULE IS EFFECTIVE ON: 01/01/2006

AUTHORIZED BY: Jeff Herring, Executive Director

#### **R477. Human Resource Management, Administration.**

##### **R477-7. Leave.**

##### **R477-7-5. Converted Sick Leave.**

As an incentive to reduce sick leave abuse, an employee may convert sick leave hours to converted sick leave after the end of the last pay period of the calendar year in which the employee is eligible.

(1) To be eligible, an employee's sick leave account must have accrued a minimum total of 144 hours at the beginning of the first pay period of the calendar year.

(a) At the end of the last pay period of a calendar year in which an employee is eligible, all unused hours accrued that year in excess of 64 shall be converted to converted sick leave. In the event the employee has the maximum accrued in converted sick, these hours will be added to the annual leave account balance. An employee who does not wish to have the sick leave converted shall notify agency management no later than the end of February. The converted sick leave hours will then be returned to the sick leave account.

(b) Upon separation, an eligible employee may convert any unused hours accrued in the current calendar leave year in excess of 64 to converted sick.

(c) The maximum hours of converted sick leave an employee may accrue is 320.

(2) Converted sick leave may be used as annual leave, regular sick leave, or as paid health and life insurance at the time of retirement for employees under age 65. If an employee is 65 years of age or older at the time of retirement, converted sick leave may be used to purchase a Medicare supplement.

(a) Payment for health and life insurance is the responsibility of the employing agency.

(b) The purchase rate shall be eight hours of converted sick leave for the state paid portion of the premium for one month's coverage for health and life insurance.

(c) The retiree shall pay the same percentage of the premium as a current employee on the same plan.

(3) Upon retirement, unused converted sick leave accrued prior to January 1, 2006, which is not used as cash may be used for the purchase of health care insurance provided in R477-7-6(5).

(4) Upon retirement, twenty five percent of the value of the unused converted sick leave accrued beginning January 1, 2006, shall be placed in the employee's 401(k) account as an employer contribution, subject to IRS limitations, and the remaining hours will be contributed into the PEHP health reimbursement account provided in R477-7-6(6)(b).

##### **R477-7-6. Sick Leave Retirement Benefit.**

(1) Upon retirement from active employment, an employee may be offered a retirement benefit program, according to Section 67-19-14(2) for the unused sick leave hours accrued prior to January 1, 2006.

~~(4)~~ This program is optional for each agency. However, any decision whether or not to participate shall be agency wide and shall be consistent through an entire fiscal year. An employee shall receive the following benefit provided by the Unused Sick Leave Retirement Option Program I.

(a) If an agency decides to withdraw for the next fiscal year after initially deciding to participate, the agency must notify all employees at least 60 days before the new fiscal year begins.

(b) The employing agency shall provide the same health and life insurance benefits as provided to current employees for five years or until the employee reaches the age eligible for Medicare, whichever comes first.

(i) Health insurance provided shall be the same coverage carried by the employee at the time of retirement; i.e., family, two-party, or single. If the employee has no health coverage in place upon retirement, none shall be offered or provided.

(ii) Life insurance provided shall be the minimum authorized coverage provided for all state employees at the time the employee retires.

(iii) The retiree shall pay the same percentage of the premium as a current employee on the same plan.

(2) Employee participation in any part of this incentive program shall be voluntary, but the decision to participate shall be made at retirement.

(3) An employee may elect to receive a cash payment, or transfer to an approved 401(k) or 457 account, up to 25 percent of his accrued unused sick leave at his current rate of pay.

(4) After the election for cash out is made, 480 hours shall be deducted from the employees remaining sick leave balance.

(5) The employee may use remaining sick leave hours to participate in the following incentive program .

(a) The retiree may purchase PEHP health insurance, or a state approved program, and life insurance coverage for himself until he reaches the age eligible for Medicare.

(i) Health insurance shall be the same coverage carried by the employee at the time of retirement; i.e., family, two-party, or single.

(ii) Life insurance provided shall be the minimum authorized coverage provided for state employees at the time the employee retires.

(iii) The purchase rate shall be eight hours of sick leave or converted sick leave for the state paid portion of one month's premium.

(iv) The employee shall pay the same percentage of the premium as a current employee on the same plan.

(b) After the employee reaches the age eligible for Medicare, he may purchase PEHP Preferred Care health insurance, or a state approved cost equivalent program for a spouse until the spouse reaches the age eligible for Medicare.

(i) The purchase rate shall be eight hours of sick leave or converted sick leave for one month's premium.

(c) When the employee reaches the age eligible for Medicare, he may purchase a high option Medicare supplement policy for himself at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(d) When the spouse reaches the age eligible for Medicare, the employee may purchase a high option Medicare supplement policy for the spouse at the rate of eight hours of sick leave or converted sick leave for one month's premium.

(e) In the event an employee is killed in the line of duty, the employee's spouse shall be eligible to use the employee's available sick leave hours for the purchase of health and dental insurance as provided in R477-7-6.

(6) An employee shall receive the following benefit provided by the Unused Sick Leave Retirement Option Program II for unused sick leave hours accrued after January 1, 2006.

(a) Twenty five percent of the value of the unused sick leave shall be placed in the employees' 401(k) account as an employer contribution subject to IRS limitations.

(b) The remaining hours after the 401(k) contribution shall be deposited in the PEHP health reimbursement account at the greater of:

(i) the employee's rate of pay at retirement, or

(ii) the average rate of pay of state employees who retired in the same retirement system in the previous calendar year.

#### **R477-7-13. Leave of Absence Without Pay.**

(1) An employee shall apply in writing to agency management for approval of a leave of absence without pay. Approval may be granted for continuous leave for up to 12 months from the last day worked.

(a) The employee shall be entitled to previously accrued annual and sick leave.

(b) If unable to return to work within the time period granted, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

~~—(c) If an employee returns to work on or before the expiration of leave without pay and is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the agency shall offer the employee a reassignment to one or more immediately available vacant positions, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation. If no position is immediately available the employee shall be separated from state employment.]~~

(2) Nonmedical Reasons

(a) Leave without pay may be granted only when there is an expectation that the employee will return to work. This section does not apply for military leave.

(b) Agency management may approve leave without pay for an employee even though annual or sick leave balances exist. An employee may take up to ten consecutive working days of leave without pay without affecting the leave accrual rate.

(c) An employee who receives no compensation for a complete pay period shall be responsible for payment of the full premium of state provided benefits.

(d) An employee who returns to work on or before the expiration of leave without pay shall be placed in a position with comparable pay and seniority to the previously held position.

(3) Medical Reasons

(a) An employee who is ineligible for FMLA, Workers Compensation, or Long Term Disability may be granted leave without pay for medical reasons.

(b) Medical leave without pay may be granted for no more than 12 months. Medical leave may be approved if a registered health practitioner certifies that an employee is temporarily disabled.

(c) An employee who is granted this leave shall provide a monthly status update to the employee's supervisor.

#### **R477-7-16. Workers Compensation Leave.**

(1) An employee may use accrued leave benefits to supplement the workers compensation benefit.

(a) The combination of leave benefit and workers compensation benefit shall not exceed the employee's gross salary. Leave benefits shall only be used in increments of one hour in making up any difference.

(b) The use of accrued leave to supplement the worker compensation benefit shall be terminated if:

(i) the employee is declared medically stable by licensed medical authority;

(ii) the workers compensation fund terminates the benefit;

(iii) the employee has been absent from work for one year;

(iv) the employee refuses to accept appropriate employment offered by the state; or

(v) the employee receives Long Term Disability or Social Security Disability benefits.

(c) The employee shall refund to the state any accrued leave paid which exceeds the employee's gross salary for the period for which the benefit was received.

(2) An employee will continue to accrue state paid benefits and leave benefits while receiving a workers compensation time loss benefit for up to one year.

(3) Health insurance benefits shall continue for an employee on leave without pay while receiving workers compensation benefits. The employee is responsible for the payment of the employee share of the premium.

(4) If the employee is able to return to work within one year of the last day worked, the agency shall place the employee in the previously held position or a similar position at a comparable salary range.

(5) If the employee is unable to return to work within 12 months, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(6) An employee who files a fraudulent workers compensation claim shall be disciplined according to the provisions of R477-11.

#### **R477-7-17. Long Term Disability Leave.**

(1) An employee who is determined eligible for the Long Term Disability Program (LTD) shall be granted up to one year of medical leave, if warranted by a medical condition.

(a) The medical leave begins on the last day the employee worked. LTD requires a three month waiting period before benefit payments begin. During this period, an employee may use available sick and converted sick leave. When those balances are exhausted, an employee may use other leave balances available.

(b) An employee determined eligible for Long Term Disability benefits shall be eligible for health insurance benefits the day after the last day worked. The employee is responsible for 10% of the health insurance premium during the first year of disability, 20% during the second year of disability, and 30% thereafter until the employee is no longer covered by the long term disability program.

Upon approval of the LTD claim:

(i) Biweekly salary payments that the employee may be receiving shall cease. If the employee received any salary payments after the three month waiting period, the LTD benefit shall be offset by the amount received.

(ii) The employee shall be paid for remaining balances of annual leave, compensatory hours and excess hours in a lump sum payment.

This payment shall be made at the time LTD is approved unless the employee requests in writing to receive it upon separation from state employment. No reduction of the LTD payment shall be made to offset this payment. If the employee returns to work prior to one year after the last day worked, the employee has the option of buying back annual leave at the current hourly rate.

(iii) An employee with a converted sick leave balance at the time of LTD eligibility shall have the option to receive a lump sum payout of all or part of the balance or to keep the balance intact to pay for health and life insurance upon retirement. The payout shall be at the rate at the time of LTD eligibility.

(iv) An employee who retires from state government directly from LTD may be eligible for up to five years health and life insurance as provided in Subsection 67-19-14(2)(b)(ii).

(v) Unused sick leave balance shall remain intact until the employee retires. At retirement, the employee shall be eligible for the cash payout and the purchase of health and life insurance as provided in Subsection 67-19-14(2)(c)(i).

(2) An employee shall continue to accrue service credit for retirement purposes while receiving long term disability benefits.

(3) Conditions for return from leave without pay shall include:

(a) If an employee is able to return to work within one year of the last day worked, the agency shall place the employee in the previously held position or similar position in a comparable salary range provided the employee is able to perform the essential functions of the job with or without a reasonable accommodation. [

~~(b) If an employee is unable to perform the essential functions of the position because of a permanent disability that qualifies as a disability under the ADA, the agency shall offer the employee a reassignment to one or more immediately available vacant positions, for which the employee qualifies, and whose essential functions the employee is able to perform without a reasonable accommodation.]~~

([e]b) If an employee is unable to return to work within one year after the last day worked, the employee shall be separated from state employment unless prohibited by state or federal law to include but not limited to the Americans with Disabilities Act.

(4) An employee who files a fraudulent long term disability claim shall be disciplined according to the provisions of R477-11.

**KEY: holidays, leave benefits, vacations**

**Date of Enactment or Last Substantive Amendment: January 1, 2006**

**Authorizing, and Implemented or Interpreted Law: 49-9-203; 63-13-2; 67-19-6; 67-19-12.9; 67-19-14.5**

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**End of the Notices of 120-Day (Emergency) Rules Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Administrative Services

Fleet Operations, Surplus Property  
No. 28133 (AMD): R28-1. State Surplus Property Disposal.  
Published: September 1, 2005  
Effective: December 20, 2005

### Agriculture and Food

Chemistry Laboratory  
No. 28304 (AMD): R63-1. Fee Schedule.  
Published: November 15, 2005  
Effective: December 16, 2005

### Commerce

Occupational and Professional Licensing  
No. 28293 (AMD): R156-55a. Utah Construction Trades Licensing Act Rules.  
Published: November 15, 2005  
Effective: December 19, 2005

No. 28286 (AMD): R156-56. Utah Uniform Building Standard Act Rules.  
Published: November 1, 2005  
Effective: January 1, 2006

No. 28285 (AMD): R156-56-707. Statewide Amendments to the IPC.  
Published: November 1, 2005  
Effective: January 1, 2006

### Community and Economic Development

Business and Economic Development  
No. 28309 (REP): R184-1. Community and Economic Development Project Fund Application Procedures.  
Published: November 15, 2005  
Effective: December 28, 2005

### Education

Administration  
No. 28305 (AMD): R277-507-3. Endorsement Requirements.  
Published: November 15, 2005  
Effective: December 16, 2005

### Governor

Planning and Budget  
No. 28295 (REP): R361-1. Rule for Implementation of the Resource Development Coordinating Committee Act, 1981.  
Published: November 15, 2005  
Effective: January 3, 2006

### Health

Health Care Financing, Coverage and Reimbursement Policy  
No. 28315 (AMD): R414-302-6. Application for Other Possible Benefits.  
Published: November 15, 2005  
Effective: December 16, 2005

### Insurance

Administration  
No. 28174 (AMD): R590-102. Insurance Department Fee Payment Rule.  
Published: September 15, 2005  
Effective: December 28, 2005

No. 28044 (R&R): R590-126. Individual and Franchise Disability Insurance, Minimum Standards.  
Published: July 15, 2005  
Effective: December 28, 2005

No. 28044 (CPR): R590-126. Accident and Health Insurance Standards.  
Published: November 1, 2005  
Effective: December 28, 2005

No. 28116 (AMD): R590-203. Health Grievance Review Process and Disability Claims.  
Published: August 15, 2005  
Effective: December 28, 2005

No. 28116 (CPR): R590-203. Health Grievance Review Process and Disability Claims.  
Published: November 1, 2005  
Effective: December 28, 2005

No. 28047 (NEW): R590-233. Health Benefit Plan Insurance Standards.  
Published: July 15, 2005  
Effective: December 28, 2005

No. 28047 (CPR): R590-233. Health Benefit Plan Insurance Standards.  
Published: November 1, 2005  
Effective: December 28, 2005



Labor Commission

Industrial Accidents

No. 28298 (AMD): R612-4-2. Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.

Published: November 15, 2005

Effective: January 1, 2006

Safety

No. 28257 (AMD): R616-2-3. Safety Codes and Rules for Boilers and Pressure Vessels.

Published: October 15, 2005

Effective: January 1, 2006

**End of the Notices of Rule Effective Dates Section**

**2006 RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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, 2006, including notices of effective date received through January 3, 2006, the effective dates of which are no later than January 15, 2006. 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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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Fleet Operations</u>					
R27-1-2	Definitions	28368	NSC	01/01/2006	Not Printed
<b>Agriculture and Food</b>					
<u>Plant Industry</u>					
R68-8	Utah Seed Law	28452	5YR	01/09/2006	Not Printed
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-10A-7	Draft Beer Sales/Minors on Premises	28431	NSC	01/01/2006	Not Printed
<b>Commerce</b>					
<u>Occupational and Professional Licensing</u>					
R156-44a	Nurse Midwife Practice Act Rules	28352	AMD	01/05/2006	2005-23/4

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-56	Utah Uniform Building Standard Act Rules	28286	AMD	01/01/2006	2005-21/6
R156-56-707	Statewide Amendments to the IPC	28285	AMD	01/01/2006	2005-21/25
R156-63-503	Administrative Penalties	28345	AMD	01/10/2006	2005-23/5
<b>Community and Economic Development</b>					
<u>Administration</u>					
R182-1	Government Records Access and Management Act Rules	28442	NSC	01/01/2006	Not Printed
<u>Community Development</u>					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	28347	NSC	01/01/2006	Not Printed
R199-9	Policy Concerning Enforceability and Taxability of Bonds Purchased	28348	NSC	01/01/2006	Not Printed
R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	28349	NSC	01/01/2006	Not Printed
R199-11	Community Development Block Grants (CDBG)	28350	NSC	01/01/2006	Not Printed
<u>Community Development, Community Services</u>					
R202-100	Community Services Block Grant Rules	28353	NSC	01/01/2006	Not Printed
R202-201	Energy Assistance: General Provisions	28359	NSC	01/01/2006	Not Printed
R202-202	Energy Assistance Programs Standards	28385	NSC	01/01/2006	Not Printed
R202-203	Energy Assistance Income Standards, Income Eligibility, and Payment Determination	28386	NSC	01/01/2006	Not Printed
R202-204	Energy Assistance: Asset Standards	28387	NSC	01/01/2006	Not Printed
R202-205	Energy Assistance: Program Benefits	28388	NSC	01/01/2006	Not Printed
R202-206	Energy Assistance: Eligibility Determination	28389	NSC	01/01/2006	Not Printed
R202-207	Energy Assistance: Records and Benefit Management	28390	NSC	01/01/2006	Not Printed
R202-208	Energy Assistance: Special State Programs	28391	NSC	01/01/2006	Not Printed
<u>Community Development, Energy Services</u>					
R203-4	Utah Public Building Energy Loan and Grant Programs	28433	NSC	01/01/2006	Not Printed
R203-5	Utah Energy Technology Demonstration Program	28434	NSC	01/01/2006	Not Printed
<u>Community Development, Fine Arts</u>					
R207-1	Utah Arts Council General Program Rules	28361	NSC	01/01/2006	Not Printed
R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	28362	NSC	01/01/2006	Not Printed
<u>Community Development, History</u>					
R212-1	Adjudicative Proceedings	28404	NSC	01/01/2006	Not Printed
R212-3	Memberships, Sales, Gifts, Bequests, Endowments	28406	NSC	01/01/2006	Not Printed
R212-4	Archaeological Permits	28407	NSC	01/01/2006	Not Printed
R212-6	State Register for Historic Resources and Archaeological Sites	28405	NSC	01/01/2006	Not Printed
R212-7	Cultural Resource Management	28403	NSC	01/01/2006	Not Printed
R212-8	Preservation Easements	28408	NSC	01/01/2006	Not Printed
R212-9	Board of State History as the Cultural Sites Review Committee Review Board	28409	NSC	01/01/2006	Not Printed
R212-11	Historic Preservation Tax Credits	28410	NSC	01/01/2006	Not Printed
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	28411	NSC	01/01/2006	Not Printed

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<u>Community Development, Library</u>					
R223-1	Adjudicative Procedures	28343	NSC	01/01/2006	Not Printed
R223-2	Public Library Online Access for Eligibility to Receive Public Funds	28344	NSC	01/01/2006	Not Printed
<u>Indian Affairs</u>					
R230-1	Native American Grave Protection Repatriation Act	28441	NSC	01/01/2006	Not Printed
<b>Crime Victim Reparations</b>					
<u>Administration</u>					
R270-1	Award and Reparations Standards	28355	AMD	01/04/2006	2005-23/6
<b>Environmental Quality</b>					
<u>Air Quality</u>					
R307-170	Continuous Emission Monitoring Program	28226	AMD	01/05/2006	2005-19/6
<u>Drinking Water</u>					
R309-600	Drinking Water Source Protection for Ground-Water Sources	28392	NSC	01/01/2006	Not Printed
R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	28380	NSC	01/01/2006	Not Printed
<b>Governor</b>					
<u>Planning and Budget</u>					
R361-1	Rule for Implementation of the Resource Development Coordinating Committee Act, 1981	28295	REP	01/03/2006	2005-22/36
<b>Health</b>					
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	28357	R&R	01/04/2006	2005-23/42
R414-63	Medicaid Policy for Pharmacy Reimbursement	28356	REP	01/04/2006	2005-23/44
<u>Health Systems Improvement, Licensing</u>					
R432-100-24	Pharmacy Services	28312	AMD	01/05/2006	2005-22/34
R432-100-33	Medical Records	28313	AMD	01/05/2006	2005-22/35
R432-100-38	Emergency and Disaster Plan	28311	AMD	01/05/2006	2005-22/38
R432-106	Specialty Hospital - Critical Access	28301	AMD	01/05/2006	2005-22/39
R432-106	Specialty Hospital - Critical Access	28449	5YR	01/06/2006	Not Printed
<u>Health Systems Improvement, Primary Care and Rural Health</u>					
R434-100-6	Contract Requirements	28331	NSC	01/01/2006	Not Printed
<b>Human Resource Management</b>					
<u>Administration</u>					
R477-7	Leave	28443	EMR	01/01/2006	2006-2/42
<b>Labor Commission</b>					
<u>Industrial Accidents</u>					
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	28298	AMD	01/01/2006	2005-22/41
<u>Safety</u>					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	28257	AMD	01/01/2006	2005-20/43

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<b>Natural Resources</b>					
<u>Parks and Recreation</u>					
R651-611	Fee Schedule	28169	AMD	01/01/2006	2005-18/46
<u>Wildlife Resources</u>					
R657-39	Regional Advisory Councils	28453	5YR	01/09/2006	Not Printed
R657-40	Wildlife Rehabilitation.	28456	5YR	01/10/2006	Not Printed
<b>Public Safety</b>					
<u>Fire Marshal</u>					
R710-9	Rules Pursuant to the Utah Fire Prevention Law	28292	AMD	01/10/2006	2005-21/38
<u>Highway Patrol</u>					
R714-500	Chemical Analysis Standards and Training	28342	AMD	01/05/2006	2005-23/59
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-300	Concealed Firearm Permit Rule	28250	AMD	01/09/2006	2005-20/48
<b>Transportation</b>					
<u>Administration</u>					
R907-68	Prioritization of New Transportation Capacity Projects	28358	NEW	01/04/2006	2005-23/61
<b>Workforce Services</b>					
<u>Employment Development</u>					
R986-600-604	Adults, Youth, and Dislocated Workers	28400	NSC	01/01/2006	Not Printed

## RULES INDEX - BY KEYWORD (SUBJECT)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
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EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>adjudicative procedures</u></b>					
Community and Economic Development, Community Development, Library	28343	R223-1	NSC	01/01/2006	Not Printed
<b><u>adjudicative proceedings</u></b>					
Community and Economic Development, Community Development, History	28404	R212-1	NSC	01/01/2006	Not Printed
<b><u>administrative procedures</u></b>					
Community and Economic Development, Community Development, History	28404	R212-1	NSC	01/01/2006	Not Printed
	28406	R212-3	NSC	01/01/2006	Not Printed

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<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	28407	R212-4	NSC	01/01/2006	Not Printed
Community and Economic Development, Community Development, Library	28343	R223-1	NSC	01/01/2006	Not Printed
<b><u>air pollution</u></b>					
Environmental Quality, Air Quality	28226	R307-170	AMD	01/05/2006	2005-19/6
<b><u>alcohol</u></b>					
Public Safety, Highway Patrol	28342	R714-500	AMD	01/05/2006	2005-23/59
<b><u>alcoholic beverages</u></b>					
Alcoholic Beverage Control, Administration	28431	R81-10A-7	NSC	01/01/2006	Not Printed
<b><u>antipoverty programs</u></b>					
Community and Economic Development, Community Development, Community Services	28353	R202-100	NSC	01/01/2006	Not Printed
<b><u>archaeology</u></b>					
Community and Economic Development, Community Development, History	28407	R212-4	NSC	01/01/2006	Not Printed
<b><u>art donations</u></b>					
Community and Economic Development, Community Development, Fine Arts	28362	R207-2	NSC	01/01/2006	Not Printed
<b><u>art financing</u></b>					
Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
<b><u>art in public places</u></b>					
Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
	28362	R207-2	NSC	01/01/2006	Not Printed
<b><u>art loans</u></b>					
Community and Economic Development, Community Development, Fine Arts	28362	R207-2	NSC	01/01/2006	Not Printed
<b><u>art preservation</u></b>					
Community and Economic Development, Community Development, Fine Arts	28361	R207-1	NSC	01/01/2006	Not Printed
<b><u>art work</u></b>					
Community and Economic Development, Community Development, Fine Arts	28362	R207-2	NSC	01/01/2006	Not Printed
<b><u>benefits</u></b>					
Community and Economic Development, Community Development, Community Services	28388	R202-205	NSC	01/01/2006	Not Printed
	28390	R202-207	NSC	01/01/2006	Not Printed
<b><u>boilers</u></b>					
Labor Commission, Safety	28257	R616-2-3	AMD	01/01/2006	2005-20/43
<b><u>breath testing</u></b>					
Public Safety, Highway Patrol	28342	R714-500	AMD	01/05/2006	2005-23/59
<b><u>building codes</u></b>					
Commerce, Occupational and Professional Licensing	28286	R156-56	AMD	01/01/2006	2005-21/6
	28285	R156-56-707	AMD	01/01/2006	2005-21/25

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>building inspection</u></b>					
Commerce, Occupational and Professional Licensing	28286	R156-56	AMD	01/01/2006	2005-21/6
	28285	R156-56-707	AMD	01/01/2006	2005-21/25
<b><u>burial</u></b>					
Community and Economic Development, Community Development, History	28411	R212-12	NSC	01/01/2006	Not Printed
<b><u>capacity</u></b>					
Transportation, Administration	28358	R907-68	NEW	01/04/2006	2005-23/61
<b><u>cemetery</u></b>					
Community and Economic Development, Community Development, History	28411	R212-12	NSC	01/01/2006	Not Printed
<b><u>certification</u></b>					
Labor Commission, Safety	28257	R616-2-3	AMD	01/01/2006	2005-20/43
<b><u>certified nurse midwife</u></b>					
Commerce, Occupational and Professional Licensing	28352	R156-44a	AMD	01/05/2006	2005-23/4
<b><u>client rights</u></b>					
Community and Economic Development, Community Development, Community Services	28359	R202-201	NSC	01/01/2006	Not Printed
<b><u>community action programs</u></b>					
Community and Economic Development, Community Development, Community Services	28353	R202-100	NSC	01/01/2006	Not Printed
<b><u>community development</u></b>					
Community and Economic Development, Community Development	28350	R199-11	NSC	01/01/2006	Not Printed
<b><u>concealed firearm permit</u></b>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	28250	R722-300	AMD	01/09/2006	2005-20/48
<b><u>confidentiality of information</u></b>					
Community and Economic Development, Community Development, Community Services	28359	R202-201	NSC	01/01/2006	Not Printed
<b><u>continuous monitoring</u></b>					
Environmental Quality, Air Quality	28226	R307-170	AMD	01/05/2006	2005-19/6
<b><u>contractors</u></b>					
Commerce, Occupational and Professional Licensing	28286	R156-56	AMD	01/01/2006	2005-21/6
	28285	R156-56-707	AMD	01/01/2006	2005-21/25
<b><u>cultural resources</u></b>					
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<b><u>definitions</u></b>					
Administrative Services, Fleet Operations	28368	R27-1-2	NSC	01/01/2006	Not Printed
<b><u>drinking water</u></b>					
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	28380	R309-605	NSC	01/01/2006	Not Printed
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	28386	R202-203	NSC	01/01/2006	Not Printed
	28387	R202-204	NSC	01/01/2006	Not Printed
	28388	R202-205	NSC	01/01/2006	Not Printed
	28389	R202-206	NSC	01/01/2006	Not Printed
	28390	R202-207	NSC	01/01/2006	Not Printed
	28391	R202-208	NSC	01/01/2006	Not Printed
<b><u>energy industries</u></b> Community and Economic Development, Community Development, Community Services	28391	R202-208	NSC	01/01/2006	Not Printed
<b><u>energy loans</u></b> Community and Economic Development, Community Development, Energy Services	28433	R203-4	NSC	01/01/2006	Not Printed
	28434	R203-5	NSC	01/01/2006	Not Printed
<b><u>environmental health</u></b> Environmental Quality, Drinking Water	28392	R309-600	NSC	01/01/2006	Not Printed
	28380	R309-605	NSC	01/01/2006	Not Printed
<b><u>fees</u></b> Natural Resources, Parks and Recreation	28169	R651-611	AMD	01/01/2006	2005-18/46
<b><u>financial disclosures</u></b> Community and Economic Development, Community Development, Community Services	28387	R202-204	NSC	01/01/2006	Not Printed
<b><u>fire prevention</u></b> Public Safety, Fire Marshal	28292	R710-9	AMD	01/10/2006	2005-21/38
<b><u>food sales tax refunds</u></b> Community and Economic Development, Community Development, Community Services	28353	R202-100	NSC	01/01/2006	Not Printed
<b><u>freedom of information</u></b> Community and Economic Development, Administration	28442	R182-1	NSC	01/01/2006	Not Printed
<b><u>government documents</u></b> Community and Economic Development, Administration	28442	R182-1	NSC	01/01/2006	Not Printed
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<b><u>grant programs</u></b> Community and Economic Development, Community Development, Energy Services	28433	R203-4	NSC	01/01/2006	Not Printed
	28434	R203-5	NSC	01/01/2006	Not Printed



<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<b><u>grants</u></b>					
Community and Economic Development, Community Development	28347	R199-8	NSC	01/01/2006	Not Printed
	28348	R199-9	NSC	01/01/2006	Not Printed
	28350	R199-11	NSC	01/01/2006	Not Printed
Community and Economic Development, Community Development, Community Services	28353	R202-100	NSC	01/01/2006	Not Printed
<b><u>health facilities</u></b>					
Health, Health Systems Improvement, Licensing	28312	R432-100-24	AMD	01/05/2006	2005-22/34
	28313	R432-100-33	AMD	01/05/2006	2005-22/35
	28311	R432-100-38	AMD	01/05/2006	2005-22/38
	28449	R432-106	5YR	01/06/2006	Not Printed
	28301	R432-106	AMD	01/05/2006	2005-22/39
<b><u>hearings</u></b>					
Community and Economic Development, Community Development, Community Services	28359	R202-201	NSC	01/01/2006	Not Printed
<b><u>HEAT</u></b>					
Community and Economic Development, Community Development, Community Services	28385	R202-202	NSC	01/01/2006	Not Printed
<b><u>historic preservation</u></b>					
Community and Economic Development, Community Development, History	28403	R212-7	NSC	01/01/2006	Not Printed
	28408	R212-8	NSC	01/01/2006	Not Printed
	28409	R212-9	NSC	01/01/2006	Not Printed
<b><u>historic sites</u></b>					
Community and Economic Development, Community Development, History	28405	R212-6	NSC	01/01/2006	Not Printed
	28408	R212-8	NSC	01/01/2006	Not Printed
<b><u>historical society</u></b>					
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<b><u>holidays</u></b>					
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<b><u>housing</u></b>					
Community and Economic Development, Community Development, History	28410	R212-11	NSC	01/01/2006	Not Printed
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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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**Governor**Planning and Budget, Chief Information Officer

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R994-307-101	Relief of Charges to Contributing Employers	27919	AMD	09/29/2005	2005-11/71
R994-308	Bond or Security Requirement	28020	NSC	08/01/2005	Not Printed
R994-309	Nonprofit Organizations	27968	NSC	08/01/2005	Not Printed

R994-309-105	Reimbursable Employer's Liability for Benefits Paid	27921	AMD	09/29/2005	2005-11/72
R994-310	Coverage	28034	NSC	08/01/2005	Not Printed
R994-311	Governmental Units	27984	NSC	08/01/2005	Not Printed
R994-311	Governmental Units	27922	AMD	09/29/2005	2005-11/73
R994-312	Employing Units Records - Confidential	28021	NSC	08/01/2005	Not Printed
R994-315	Centralized New Hire Registry Reporting	28022	NSC	08/01/2005	Not Printed
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R994-403	Claim for Benefits	27729	NSC	04/01/2005	Not Printed
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### ABBREVIATIONS

AMD = Amendment  
 CPR = Change in Proposed Rule  
 EMR = Emergency rule (120-day)  
 NEW = New rule  
 EXD = Expired

NSC = Nonsubstantive rule change  
 REP = Repeal  
 R&R = Repeal and reenact  
 5YR = Five-Year Review

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 27706 R277-411 AMD 04/01/2005 2005-5/10  
 27707 R277-412 AMD 04/01/2005 2005-5/13  
 27708 R277-413 AMD 04/01/2005 2005-5/16  
 28145 R277-515 REP 10/05/2005 2005-17/7  
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 27964 R309-100 AMD 09/13/2005 2005-12/29  
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	28029	R307-101-2	AMD	09/08/2005	2005-13/24
	28221	R307-103	5YR	09/07/2005	2005-19/45
	28111	R307-110	NSC	08/01/2005	Not Printed
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	27429	R307-110-11	AMD	03/04/2005 see CPR in 02/01/2005 Bulletin	2004-19/37
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**ROPEWAYS**

Transportation; Operations, Traffic and Safety	27876	R920-50	AMD	07/12/2005	2005-11/69
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**ROYALTIES**

School and Institutional Trust Lands; Administration	27611	R850-20	REP	04/01/2005	2005-2/50
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**RULES**

Public Service Commission; Administration	27587	R746-200-6	AMD	02/25/2005	2005-1/32
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**RULES AND PROCEDURES**

Education; Administration	28372	R277-100	5YR	11/23/2005	2005-24/52
Health; Community and Family Health Services, Immunization	27897	R396-100	AMD	07/21/2005	2005-11/6
Health; Epidemiology and Laboratory Services, Epidemiology	27496	R386-702	AMD	05/16/2005 see CPR in 02/01/2005 Bulletin	2004-21/13
	27496	R386-702	CPR	05/16/2005	2005-3/53
	28152	R386-702	AMD	10/14/2005	2005-17/19
	27853	R386-702-9	AMD	08/25/2005	2005-10/17
Public Service Commission; Administration	27821	R746-341	AMD	06/20/2005	2005-9/42
	28137	R746-341	AMD	10/20/2005	2005-17/28
	28306	R746-341	5YR	10/28/2005	2005-22/51
	27861	R746-405-1	AMD	08/08/2005	2005-10/44
	28307	R746-407	5YR	10/28/2005	2005-22/52
School and Institutional Trust Lands; Administration	27812	R850-2	NSC	05/01/2005	Not Printed

**SAFETY**

Environmental Quality; Radiation Control	27744	R313-15	AMD	05/13/2005	2005-7/33
Labor Commission; Occupational Safety and Health	28013	R614-1-4	AMD	08/02/2005	2005-13/33
	28255	R614-1-4	NSC	11/01/2005	Not Printed
	27903	R614-7-4	AMD	07/02/2005	2005-11/60
Labor Commission; Safety	27616	R616-2-3	AMD	03/07/2005	2005-2/49
	28257	R616-2-3	AMD	01/01/2006	2005-20/43
	27590	R616-3-3	AMD	02/01/2005	2005-1/30
Transportation; Motor Carrier, Ports of Entry	27954	R912-16	5YR	06/01/2005	2005-12/89
	28150	R912-16	5YR	08/15/2005	2005-17/56

**SAFETY REGULATIONS**

Transportation; Motor Carrier	28243	R909-75	AMD	11/04/2005	2005-19/28
Transportation; Motor Carrier, Ports of Entry	27953	R912-3	REP	07/18/2005	2005-12/74
	27952	R912-11	NEW	07/18/2005	2005-12/79

**SALARIES**

Human Resource Management; Administration	27904	R477-6	AMD	07/02/2005	2005-11/32
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**SALES TAX**

Tax Commission; Auditing	27868	R865-19S-6	AMD	07/20/2005	2005-11/64
	27931	R865-19S-8	AMD	07/20/2005	2005-12/73
	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54
	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27870	R865-19S-78	AMD	07/20/2005	2005-11/65
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	28045	R865-19S-87	NSC	09/01/2005	Not Printed
	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
	28049	R865-19S-90	AMD	09/01/2005	2005-14/65
	28050	R865-19S-98	AMD	09/01/2005	2005-14/66
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
	27867	R865-19S-112	AMD	07/20/2005	2005-11/67
	28114	R865-19S-120	AMD	10/13/2005	2005-16/38

**SAND**

School and Institutional Trust Lands; Administration	27609	R850-23	NEW	04/01/2005	2005-2/72
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**SANITARIAN**

Commerce; Occupational and Professional Licensing	28276	R156-20a	5YR	10/06/2005	2005-21/80
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**SCENIC BYWAYS**

Transportation; Program Development	28024	R926-7	NEW	09/15/2005	2005-13/42
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**SCHOLARSHIPS**

Education; Administration	28143	R277-476	5YR	08/15/2005	2005-17/55
	28026	R277-602	EMR	06/14/2005	2005-13/47
	28138	R277-602	NEW	10/05/2005	2005-17/10
Regents (Board Of); Administration	27663	R765-604	5YR	01/19/2005	2005-4/56
	27666	R765-604	AMD	03/22/2005	2005-4/22

**SCHOOL PERSONNEL**

Education; Administration	28140	R277-107	5YR	08/15/2005	2005-17/54
	28144	R277-516	REP	10/05/2005	2005-17/8

**SCHOOLS**

Education; Administration	28141	R277-474	5YR	08/15/2005	2005-17/54
	28373	R277-477	5YR	11/23/2005	2005-24/52

**SCIENCE**

Education; Administration	27932	R277-444	AMD	07/18/2005	2005-12/24
	28282	R277-444	5YR	10/12/2005	2005-21/81

**SECONDARY EDUCATION**

Regents (Board Of); Administration	27663	R765-604	5YR	01/19/2005	2005-4/56
	27666	R765-604	AMD	03/22/2005	2005-4/22

**SECURITIES**

Commerce; Securities	27732	R164-2	5YR	02/28/2005	2005-6/34
	27735	R164-2-1	NSC	04/01/2005	Not Printed
	27777	R164-9-1	EMR	03/25/2005	2005-8/53
Money Management Council; Administration	28327	R628-16	5YR	11/03/2005	2005-23/68
	27742	R628-19	R&R	05/05/2005	2005-7/64

**SECURITIES REGULATION**

Commerce; Securities	27732	R164-2	5YR	02/28/2005	2005-6/34
	27735	R164-2-1	NSC	04/01/2005	Not Printed
	27777	R164-9-1	EMR	03/25/2005	2005-8/53
Money Management Council; Administration	27743	R628-15	NEW	05/05/2005	2005-7/60

**SECURITY GUARDS**

Commerce; Occupational and Professional Licensing	28193	R156-63	5YR	09/01/2005	2005-18/72
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**SECURITY MEASURES**

Corrections; Administration	28395	R251-709	5YR	12/06/2005	2006-1/36
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**SELF ADMINISTERED SERVICES**

Human Services; Services for People with Disabilities	27801	R539-5	NEW	05/17/2005	2005-8/33
	27939	R539-5-5	NSC	06/01/2005	Not Printed

**SELF-EMPLOYMENT INCOME**

Community and Economic Development; Community Development, Community Services	28386	R202-203	NSC	01/01/2006	Not Printed
	27421	R202-203-324	AMD	01/12/2005	2004-19/25
	27419	R202-203-328	AMD	01/12/2005	2004-19/26

**SEPTIC TANKS**

Environmental Quality; Water Quality	27699	R317-4	5YR	02/10/2005	2005-5/30
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**SERVICES**

Human Services; Services for People with Disabilities	27626	R539-2	NEW	03/12/2005	2005-2/45
	27794	R539-2-5	NSC	05/01/2005	Not Printed

**SETTLEMENTS**

Administrative Services; Facilities Construction and Management	27614	R23-26	NEW	03/15/2005	2005-2/12
Labor Commission; Adjudication	28259	R602-2-3	AMD	11/15/2005	2005-20/42
Labor Commission; Industrial Accidents	28288	R612-10	NEW	12/02/2005	2005-21/32

**SEX CRIMES**

Corrections; Administration	28396	R251-110	5YR	12/06/2005	2006-1/35
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**SEX EDUCATION**

Education; Administration	28141	R277-474	5YR	08/15/2005	2005-17/54
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**SEX OFFENDERS**

Corrections; Administration	28396	R251-110	5YR	12/06/2005	2006-1/35
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**SKILLS TESTS**

Public Safety; Driver License	27898	R708-37	5YR	05/13/2005	2005-11/101
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**SMALL GAME**

Natural Resources; Wildlife Resources	27864	R657-21	5YR	05/05/2005	2005-11/99
	28088	R657-21-2	AMD	09/06/2005	2005-15/14

**SMOKE**

Environmental Quality; Air Quality	27758	R307-204-3	AMD	07/07/2005	2005-7/11
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**SOCIAL SERVICES**

Human Services; Administration, Administrative Hearings	28318	R497-100	5YR	11/02/2005	2005-23/67
Human Services; Services for People with Disabilities	27651	R539-2	REP	03/12/2005	2005-3/31
	27792	R539-2-6	AMD	05/17/2005	2005-8/29
	27652	R539-3	REP	03/12/2005	2005-3/34
	27753	R539-4	REP	05/03/2005	2005-7/58
	27802	R539-5	REP	05/17/2005	2005-8/31
	28210	R539-6	REP	11/04/2005	2005-19/17
	28037	R539-7	EMR	06/20/2005	2005-14/94
	28036	R539-7	REP	09/16/2005	2005-14/20
	27795	R539-8	REP	05/17/2005	2005-8/35

**SOURCE MONITORING**

Environmental Quality; Drinking Water	27917	R309-205	5YR	05/16/2005	2005-11/93
	27967	R309-205	AMD	09/13/2005	2005-12/37



**SOVEREIGN LANDS**

Natural Resources; Forestry, Fire and State Lands	27750	R652-70-1900	AMD	05/20/2005	2005-7/66
	27740	R652-70-2300	AMD	05/20/2005	2005-7/67

**SPACE**

Capitol Preservation Board (State); Administration	27974	R131-6	NEW	10/13/2005	2005-12/12
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**SPECIAL NEEDS STUDENTS**

Education; Administration	28026	R277-602	EMR	06/14/2005	2005-13/47
	28138	R277-602	NEW	10/05/2005	2005-17/10

**SPECIFIC LICENSES**

Environmental Quality; Radiation Control	27747	R313-22	AMD	05/13/2005	2005-7/36
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**SPEECH IMPAIRED**

Public Service Commission; Administration	28057	R746-510	NEW	08/25/2005	2005-14/58
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**SPEECH-LANGUAGE PATHOLOGY**

Commerce; Occupational and Professional Licensing	28176	R156-41-502	AMD	10/18/2005	2005-18/13
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**STABILIZATION**

Environmental Quality; Drinking Water	27965	R309-535	AMD	11/16/2005 see CPR in 10/15/2005 Bulletin	2005-12/49
	27965	R309-535	CPR	11/16/2005	2005-20/59

**STATE AND LOCAL AFFAIRS**

Money Management Council; Administration	28275	R628-4	5YR	10/06/2005	2005-21/82
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**STATE BUILDINGS**

Administrative Services; Facilities Construction and Management	27615	R23-3	AMD	03/15/2005	2005-2/9
Capitol Preservation Board (State); Administration	27713	R131-7	5YR	02/16/2005	2005-6/34

**STATE EMPLOYEES**

Administrative Services; Finance	27848	R25-7	AMD	07/01/2005	2005-10/7
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**STATE HEAT OFFICE RECORDS**

Community and Economic Development; Community Development, Community Services	28390	R202-207	NSC	01/01/2006	Not Printed
	27420	R202-207-702	AMD	01/12/2005	2004-19/27

**STATE LANDS**

Community and Economic Development; Indian Affairs	28441	R230-1	NSC	01/01/2006	Not Printed
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**STATE PROPERTY**

Administrative Services; Fleet Operations, Surplus Property	28133	R28-1	AMD	12/20/2005	2005-17/3
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**STATE RECORDS COMMITTEE**

Administrative Services; Records Committee	27880	R35-1	AMD	07/14/2005	2005-11/5
	27621	R35-1a	NEW	03/08/2005	2005-2/17
	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
	27624	R35-4	AMD	03/04/2005	2005-2/20
	27623	R35-5	AMD	03/04/2005	2005-2/21
	27620	R35-6	AMD	03/04/2005	2005-2/22

**STATE REGISTER**

Community and Economic Development; Community Development, History	28405	R212-6	NSC	01/01/2006	Not Printed
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**STATE VEHICLE USE**

Administrative Services; Fleet Operations	27599	R27-3-6	NSC	02/01/2005	Not Printed
	28025	R27-3-12	AMD	10/03/2005	2005-13/5

**STATIONARY SOURCES**

Environmental Quality; Air Quality	27665	R307-210	AMD	04/19/2005	2005-4/17
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**STORAGE**

Capitol Preservation Board (State); Administration 27974 R131-6 NEW 10/13/2005 2005-12/12

**STOVES**

Environmental Quality; Air Quality 28214 R307-201 5YR 09/07/2005 2005-19/95  
 27760 R307-207 NEW 09/02/2005 2005-7/16  
 see CPR in  
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 27760 R307-207 CPR 09/02/2005 2005-15/33  
 27761 R307-302 AMD 09/02/2005 2005-7/17  
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 27761 R307-302 CPR 09/02/2005 2005-15/34  
 28219 R307-302 5YR 09/07/2005 2005-19/98

**STUDENT ELIGIBILITY**

Workforce Services; Workforce Information and Payment Services 27729 R994-403 NSC 04/01/2005 Not Printed  
 28035 R994-403 NSC 08/01/2005 Not Printed  
 27937 R994-403-123 AMD 09/29/2005 2005-12/86

**STUDENT LOANS**

Regents (Board Of); Administration 28251 R765-610 NSC 11/01/2005 Not Printed  
 27841 R765-626 5YR 04/26/2005 2005-10/53

**STUDENTS**

Education; Administration 27933 R277-480 REP 07/18/2005 2005-12/27  
 27662 R277-713 AMD 03/21/2005 2005-4/14  
 27875 R277-713 NSC 07/01/2005 Not Printed

**STUDENTS AT RISK**

Education; Administration 28076 R277-464 5YR 07/06/2005 2005-15/44

**STUDENTS' RIGHTS**

Education; Administration 28374 R277-616 5YR 11/23/2005 2005-24/53

**SUBPOENA**

Human Services; Recovery Services 27842 R527-67 NSC 08/10/2005 Not Printed  
 see REP DAR  
 No. 27938  
 27938 R527-67 REP 08/10/2005 2005-12/67

**SUGGESTIONS**

Human Services; Mental Health, State Hospital 28096 R525-7 NSC 08/01/2005 Not Printed

**SUPPLIES**

Education; Administration 28075 R277-459 5YR 07/06/2005 2005-15/44

**SURFACE WATER TREATMENT**

Environmental Quality; Drinking Water 27963 R309-505 AMD 09/13/2005 2005-12/47

**SURFACE WATER TREATMENT PLANT MONITORING**

Environmental Quality; Drinking Water 27910 R309-215 5YR 05/16/2005 2005-11/94  
 27969 R309-215 AMD 09/13/2005 2005-12/43

**SURVEY**

Environmental Quality; Radiation Control 27738 R313-34 5YR 03/08/2005 2005-7/76  
 27646 R313-34-1 NSC 02/01/2005 Not Printed

**SURVEYORS**

Commerce; Occupational and Professional Licensing 27698 R156-22 AMD 04/04/2005 2005-5/2

**SYSTEMS**

Public Safety; Fire Marshal 27671 R710-7-1 AMD 06/13/2005 2005-4/21

**TAILINGS**

Environmental Quality; Air Quality	27764	R307-205	AMD	07/07/2005	2005-7/12
	28042	R307-205	NSC	09/07/2005	Not Printed
				see 5YR DAR No. 28223	
	28223	R307-205	5YR	09/07/2005	2005-19/96

**TARIFFS**

Public Service Commission; Administration	27861	R746-405-1	AMD	08/08/2005	2005-10/44
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**TAX CREDIT**

Community and Economic Development; Community Development, History	28055	R212-11	5YR	06/30/2005	2005-14/97
	28410	R212-11	NSC	01/01/2006	Not Printed

**TAX EXEMPTIONS**

Tax Commission; Auditing	27868	R865-19S-6	AMD	07/20/2005	2005-11/64
	27931	R865-19S-8	AMD	07/20/2005	2005-12/73
	27819	R865-19S-20	AMD	07/01/2005	2005-9/52
	27820	R865-19S-32	AMD	07/01/2005	2005-9/54
	27822	R865-19S-51	AMD	07/01/2005	2005-9/55
	27825	R865-19S-52	AMD	07/01/2005	2005-9/56
	27826	R865-19S-60	AMD	07/01/2005	2005-9/56
	27828	R865-19S-68	AMD	07/01/2005	2005-9/57
	27831	R865-19S-71	AMD	07/01/2005	2005-9/58
	27870	R865-19S-78	AMD	07/20/2005	2005-11/65
	27832	R865-19S-85	AMD	07/01/2005	2005-9/59
	28045	R865-19S-87	NSC	09/01/2005	Not Printed
	27833	R865-19S-90	AMD	07/01/2005	2005-9/61
	28049	R865-19S-90	AMD	09/01/2005	2005-14/65
	28050	R865-19S-98	AMD	09/01/2005	2005-14/66
	27834	R865-19S-101	AMD	07/01/2005	2005-9/62
	27867	R865-19S-112	AMD	07/20/2005	2005-11/67
	28114	R865-19S-120	AMD	10/13/2005	2005-16/38

**TAX RETURNS**

Tax Commission; Auditing	27804	R865-9I-21	AMD	06/08/2005	2005-9/51
	27930	R865-9I-51	AMD	07/20/2005	2005-12/72

**TAXATION**

Tax Commission; Auditing	27929	R865-6F-35	AMD	07/20/2005	2005-12/71
	27739	R865-16R	5YR	03/08/2005	2005-7/77
Tax Commission; Motor Vehicle	27803	R873-22M-27	AMD	06/08/2005	2005-9/63
	28046	R873-22M-27	AMD	09/01/2005	2005-14/68
	28184	R873-22M-34	AMD	10/31/2005	2005-18/67
	28273	R873-22M-34	NSC	10/31/2005	Not Printed
Tax Commission; Property Tax	28151	R884-24P-33	AMD	10/13/2005	2005-17/36
	28271	R884-24P-53	AMD	12/13/2005	2005-20/52

**TAXES**

Insurance; Administration	28136	R590-157-3	NSC	09/01/2005	Not Printed
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**TEACHER CERTIFICATION**

Education; Administration	28145	R277-515	REP	10/05/2005	2005-17/77
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**TEACHERS**

Education; Administration	28075	R277-459	5YR	07/06/2005	2005-15/44
	28143	R277-476	5YR	08/15/2005	2005-17/55

**TECHNOLOGY BEST PRACTICES**

Governor; Planning and Budget, Chief Information Officer	27545	R365-101	NEW	03/09/2005	2004-23/45
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**TELECOMMUNICATIONS**

Public Service Commission; Administration	27855	R746-240	AMD	08/08/2005	2005-10/29
	27856	R746-340	AMD	08/08/2005	2005-10/32
	27821	R746-341	AMD	06/20/2005	2005-9/42
	28137	R746-341	AMD	10/20/2005	2005-17/28
	28306	R746-341	5YR	10/28/2005	2005-22/51

	27857	R746-349	AMD	08/08/2005	2005-10/34
	28129	R746-349-9	AMD	10/11/2005	2005-17/35
	27858	R746-352	REP	08/08/2005	2005-10/36
	27859	R746-356	AMD	08/08/2005	2005-10/40
	27860	R746-360	AMD	08/08/2005	2005-10/42
	27302	R746-360-9	AMD	01/04/2005	2004-15/59
				see CPR in 12/01/2004 Bulletin	
	27302	R746-360-9	CPR	01/04/2005	2004-23/54
<b><u>TELECOMMUTING</u></b>					
Human Resource Management; Administration	27889	R477-8	AMD	07/02/2005	2005-11/41
<b><u>TELEPHONE UTILITY REGULATIONS</u></b>					
Public Service Commission; Administration	27856	R746-340	AMD	08/08/2005	2005-10/32
<b><u>TELEPHONES</u></b>					
Public Service Commission; Administration	27855	R746-240	AMD	08/08/2005	2005-10/29
	27821	R746-341	AMD	06/20/2005	2005-9/42
	28137	R746-341	AMD	10/20/2005	2005-17/28
	28306	R746-341	5YR	10/28/2005	2005-22/51
<b><u>THERAPEUTIC SCHOOLS</u></b>					
Human Services; Administration, Administrative Services, Licensing	28132	R501-15	NEW	10/05/2005	2005-17/22
<b><u>TIME</u></b>					
Labor Commission; Antidiscrimination and Labor, Fair Housing	28126	R608-1-8	EMR	08/02/2005	2005-17/52
	28127	R608-1-8	AMD	10/07/2005	2005-17/27
Labor Commission; Industrial Accidents	27892	R612-1-3	AMD	07/02/2005	2005-11/49
<b><u>TIRES</u></b>					
Transportation; Motor Carrier, Ports of Entry	28149	R912-76	AMD	10/13/2005	2005-17/48
<b><u>TITLE</u></b>					
Insurance; Administration	27776	R590-212	NSC	05/01/2005	Not Printed
<b><u>TITLE INSURANCE</u></b>					
Insurance; Title and Escrow Commission	28105	R592-1	NEW	09/30/2005	2005-16/32
	28107	R592-2	NEW	09/30/2005	2005-16/33
<b><u>TRAFFIC CONTROL</u></b>					
Transportation; Operations, Traffic and Safety	27955	R920-5	AMD	07/18/2005	2005-12/83
<b><u>TRAFFIC REGULATIONS</u></b>					
Public Safety; Driver License	28108	R708-16	NSC	08/01/2005	Not Printed
<b><u>TRAFFIC SAFETY</u></b>					
Transportation; Operations, Traffic and Safety	27955	R920-5	AMD	07/18/2005	2005-12/83
<b><u>TRAFFIC SIGNS</u></b>					
Transportation; Operations, Traffic and Safety	27955	R920-5	AMD	07/18/2005	2005-12/83
<b><u>TRAINING</u></b>					
Corrections; Administration	28397	R251-301	5YR	12/06/2005	2006-1/35
Public Service Commission; Administration	28057	R746-510	NEW	08/25/2005	2005-14/58
<b><u>TRAINING PROGRAMS</u></b>					
Human Resource Management; Administration	27887	R477-10	AMD	07/02/2005	2005-11/43
<b><u>TRAMWAY PERMITS</u></b>					
Transportation; Operations, Traffic and Safety	27876	R920-50	AMD	07/12/2005	2005-11/69
<b><u>TRAMWAYS</u></b>					
Transportation; Operations, Traffic and Safety	27876	R920-50	AMD	07/12/2005	2005-11/69

**TRANSPORTATION**

Administrative Services; Finance	27848	R25-7	AMD	07/01/2005	2005-10/7
Environmental Quality; Radiation Control	27745	R313-19	AMD	05/13/2005	2005-7/34
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Transportation; Program Development	28024	R926-7	NEW	09/15/2005	2005-13/42
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