

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	22	-	
Changed to Admin. Code Ref. (R no.):	R		-		-	

1.	Agency:	Commerce/Division of Occupational and Professional Licensing			
	Room no.:				
	Building:	Heber M. Wells Building			
	Street address 1:	160 East 300 South			
	Street address 2:				
	City, state, zip:	Salt Lake City UT 84111-2316			
	Mailing address 1:	PO Box 146741			
	Mailing address 2:				
	City, state, zip:	Salt Lake City UT 84114-6741			
	Contact person(s):				
	Name:	Phone:	Fax:	E-mail:	
	Dennis Meservy	801-530-6375	801-530-6511	dmeservy@utah.gov	

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):	Professional Engineers and Professional Land Surveyors Licensing Act Rule			
3.	Type of notice:	New ___; Amendment XX; Repeal ___; Repeal and Reenact ___			
4.	Purpose of the rule or reason for the change:	<p>The Division and the Professional Engineers and Professional Land Surveyors Licensing Board have reviewed the rule and determined that various changes need to be made. The current definition of incidental practice was determined by both the Architects Licensing Board and Professional Engineers and Professional Land Surveyors Licensing Board to be too vague. Both Boards determined there was a need to further define and clarify incidental practice not only for the licensed professionals but also for building inspectors. The two Boards worked together and came up with the language in this proposed rule change. Proposed amendments also update: (1) names of professional associations and examinations; (2) education requirements; (3) work experience; (4) waiting period between each failure for the Utah Land Surveyor Local Practice Examination; (5) when continuing education is due and clarifies when continuing education can be waived; (6) inactive status requirements for licensees.</p>			
5.	This change is a response to comments from the Administrative Rules Review Committee.	No XX; Yes ___			
6.	Summary of the rule or change:				

Section 102: The definition of "incidental practice" in Paragraph (5) is being updated to restrict incidental work to an occupant load of 49 and prohibits work on occupancy category III or IV structures as defined by the 2006 International Building Code. Additionally, incidental work would be limited to 15 percent of the overall construction value of a project. Paragraph (7)(c)(i) is amended to change a two or four year degree to an associate or higher education degree in land surveying to allow master and doctorate degrees; a similar change is also made in R156-22-302b(2). As provided in R156-22-302c(4)(a)(i)(B), effective January 1, 2010, a college degree in land surveying will be required to obtain licensure. As a result, the wording which allows for licensure with no college degree and eight years of land surveying experience is being deleted. Also, throughout the rule, the name of the NCEES Principles and Practice of Surveying Examination and the NCEES Fundamentals of Surveying Examination have been updated and the Center for Professional Engineering Services (CPEES) is being changed to National Council of Examiners for Engineering and Surveying (NCEES) Credentials Evaluations. Section 302b: Added that education requirements also apply to professional structural engineer applicants for licensure. Also added (2)(c) which requires land surveying college degrees have regional accreditation. Section 302c: Additions are made to Paragraph (1)(a) and (b) to clarify that one year of work experience is established as 2,000 hours and no more than 2,000 hours of work experience can be claimed in any 12 month period. Remaining paragraphs have been renumbered. Paragraph (3)(a)(iii) - Proposed additions establish and clarify waiting periods between each test failure on the Utah Land Surveyor Local Practice Examination. For the first three test failures, there is a waiting period of 30 days. After the first three failures, there is a six month waiting period between each test failure. Testing data that is overexposed may result in an ineffective testing process. There is also the perception that multiple testing may allow unqualified individuals to become licensed. Section 304: The two year continuing education reporting period is being changed from December 31 of each even numbered year to March 31 of each odd numbered year to coincide with the renewal date for the profession. Paragraph (7) is being deleted and Paragraph (9) is being added to clarify how continuing education may be waived by the Division. Section 305 regarding inactive licensure status is rewritten to allow any licensee to place a license on inactive status as long as the license is active and in good standing at the time of the request for inactive licensure status. Section 501 regarding administrative penalties is being deleted and moved to new Section 503.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ___; Yes XX

The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. As a result of the proposed amendment concerning inactive licensure status, there may be an unknown increase in the number of licensees (professional engineers, professional structural engineers and professional land surveyors) who place their license on inactive status, but the numbers are expected to be unsubstantial. However, with a \$50 inactivation fee and a \$50 reinstatement fee, some additional state revenue could be generated.

B) Local government:

Affected: No ___; Yes XX

Due to the clarification of the definition of incidental practice, there could be a cost savings to local governments in that local governments would save time and resources in determining if a licensee could actually perform work that was submitted for review.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No ___; Yes XX

There may be an unknown fiscal impact to a limited number of individuals/licensees and firms, which may qualify as a small business, that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No ___; Yes XX

The proposed amendments only apply to licensed professional engineers, professional structural engineers and professional land surveyors and applicants for licensure in those classifications. There may be an unknown fiscal impact to a limited number of licensees that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances. Licensed individuals who place their license on an inactive status will not be required, except for the two years prior to reinstating their license, to complete the continuing education requirement. Allowing licensees to place their license on inactive status could have an unknown financial benefit to those individuals who are licensed in multiple states. The average amount of savings for each two year renewal period would be approximately \$1200 for a licensed engineer and approximately \$600 for a licensed land surveyor. The Division is unable to determine how many licensees will choose to place their license on inactive status.

8. Compliance costs for affected persons:

The proposed amendments only apply to licensed professional engineers, professional structural engineers and professional land surveyors and applicants for licensure in those classifications. There may be an unknown fiscal impact to a limited number of licensees that may be doing work which is prohibited under the proposed rule amendments regarding incidental practice. The Division, however, is unable to determine any exact fiscal impact due to a wide range of circumstances. Licensed individuals who place their license on an inactive status will not be required, except for the two years prior to reinstating their license, to complete the continuing education requirement. Allowing licensees to place their license on inactive status could have an unknown financial benefit to those individuals who are licensed in multiple states. The average amount of savings for each two year renewal period would be approximately \$1200 for a licensed engineer and approximately \$600 for a licensed land surveyor. The Division is unable to determine how many licensees will choose to place their license on inactive status.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

This rule filing adopts definitions as required by statute; clarifies existing definitions and standards, such as inactive licensing status and administrative penalties; corrects references to professional organizations; and changes the continuing education deadline to coordinate with the license renewal date. No fiscal impact to businesses is anticipated beyond the cost savings addressed in the rule summary.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

58-22-101	58-1-106(1)(a)
58-1-202(1)(a)	

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; *if none, leave blank*):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		

(If this rule incorporates more than two items by reference, please attach additional pages)

12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	12/15/2009
	B) A public hearing (optional) will be held:	
	On (mm/dd/yyyy):	At (hh:mm AM/PM):
	11/18/2009	9:00 am
		At (place):
		160 East 300 South, Conference Room 475 (4th floor), Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):	12/22/2009
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:	
	professional land surveyors	professional engineers
	professional structural engineers	
15.	Attach an RTF document containing the text of this rule change (filename):	R156-22.pro
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.		
AGENCY AUTHORIZATION		
Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date (mm/dd/yyyy): 10/21/2009

R156. Commerce, Occupational and Professional Licensing.

R156-. Professional Engineers and Professional Land Surveyors Licensing Act Rule.

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 this rule:

(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 this rule 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 secondary and 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][c]) 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);

(d) is work that affects not greater than 49 occupant as determined in Section 1004 of the 2006 International Building Code;

(e) is work included on a project with a construction value not greater than 15 percent of the overall construction value for the project including all changes or additions to the contracted or agreed upon work; and

(f) shall not include work on a building or related structure in an occupancy category of III or IV as defined in 1604.5 of the 2006 International Building Code.

(6) "Professional structural engineering or the practice of structural engineering", as defined in Subsection 58-22-102(14), is further defined to exclude the design and oversight of the construction and installation of highway, utility, or pedestrian bridges.

(7) "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]~~that 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 ~~[Center for Professional Engineering Services (CPEES)]~~NCEES Credentials Evaluations and four years of full time engineering experience under supervision of one or more licensed engineers; and

(ii) passing the NCEES Principles and Practice of Engineering Examination (PE).

(b) Professional Structural Engineer.

(i) a bachelors or post graduate degree in engineering or equivalent education as determined by the ~~[Center for Professional Engineering Services (CPEES)]~~NCEES Credentials Evaluations and four years of full time engineering experience under supervision of one or more licensed 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]~~an associate or higher education degree in land surveying as set forth in Subsection R156-22-302b(2)(c) or equivalent education as determined by the ~~[Center for Professional Engineering Services (CPEES)]~~NCEES Credentials Evaluations 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]~~PS) or passing a professional land surveying examination that is substantially equivalent to the NCEES Principles and Practice of ~~[Land]~~ Surveying Examination.

(8) "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.

(9) "TAC/ABET" means Technology Accreditation Commission/Accreditation Board for Engineering and Technology (ABET, Inc.).

(10) "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.

(11) "Unprofessional conduct" as defined in Title 58, Chapters

1 and 22, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-22-502.

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

(1) Education requirements - Professional Engineer and Professional Structural 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 an EAC/ABET accredited program by the NCEES Credentials Evaluations, formerly known as the Center for Professional Engineering Education Services (CPEES). 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 or a professional structural 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]~~ higher education degree and completion of a minimum of 30 semester hours or 42 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) photogrammetry;
- (iv) public land survey system;
- (v) studies in land records or land record systems;
- (vi) surveying field techniques; and

(b) the remainder of the 30 semester hours or 42 quarter hours may be made up of successful completion of courses from the following content areas:

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

- (ii) control systems;
 - (iii) drafting, not to exceed six semester hours or eight quarter hours;
 - (iv) geodesy;
 - (v) geographic information systems;
 - (vi) global positioning systems;
 - (vii) land development; and
 - (viii) survey instrumentation;
- (c) the degree and courses shall be completed in an education institution accredited by one of the following:
- (i) Middle States Association of Colleges and Schools;
 - (ii) New England Association of Colleges and Schools;
 - (iii) North Central Association of Colleges and Schools;
 - (iv) Northwest Commission on College and Universities;
 - (v) Southern Association of Colleges and Schools; or
 - (vi) Western Association of Schools and Colleges.

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

(1) General Requirements. These general requirements apply to all applicants under this chapter and are in addition to the specific license requirements in Subsections (2), (3) and (4).

(a) 2,000 hours of work experience constitutes one year (12 months) of work experience.

(b) No more than 2,000 hours of work experience can be claimed in any 12 month period.

~~(a)~~ (c) Experience must be progressive on projects that are of increasing quality and requiring greater responsibility.

~~(b)~~ (d) Only experience of an engineering, structural engineering or surveying nature, as appropriate for the specific license, is acceptable.

~~(c)~~ (e) Experience is not acceptable if it is obtained in violation of applicable statutes or rules.

~~(d)~~ (f) Unless otherwise provided in this Subsection (1) ~~(e)~~ (g), experience shall be gained under the direct supervision of a person licensed in the profession for which the license application is submitted. Supervision of an intern by another intern is not permitted.

~~(e)~~ (g) Experience is also acceptable when obtained in a work setting where licensure is not required or is exempted from licensure requirements, including experience obtained in the armed services if:

(i) the experience is performed under the supervision of qualified persons and the applicant provides verifications of the credentials of the supervisor; and

(ii) the experience gained is equivalent to work performed by an intern obtaining experience under a licensed supervisor in a licensed or civilian setting, and the applicant provides verification of the nature of the experience.

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

~~(g)~~ (i) 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 profession-related work, competently performed, and sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

([h]j) In addition to the supervisor's documentation, the applicant shall submit at least one verification of qualifying experience from a person licensed in the profession who has personal knowledge of the applicant's knowledge, ability and competence to practice in the profession applied for.

([i]k) Duties and responsibilities of a supervisor. The duties and responsibilities of a licensee under Subsection (1)([d]f) or other qualified person under Subsection (1)([e]g) include the following.

(i) A person may not serve as a supervisor for more than one firm.

(ii) A person who renders occasional, part time or consulting services to or for a firm may not serve as a supervisor.

(iii) The supervisor shall be in responsible charge of the projects assigned and is professionally responsible for the acts and practices of the supervisee.

(iv) The supervision shall be conducted in a 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 supervisor shall be available for advice, consultation and direction consistent with the standards and ethics of the profession.

(vi) The supervisor shall provide periodic review of the work assigned to the supervisee.

(vii) The supervisor shall monitor the performance of the supervisee for compliance with laws, standards and ethics applicable to the profession.

(viii) The supervisor shall provide supervision only to a supervisee who is an employee of a licensed professional or alternatively in a setting wherein both the supervisor and the supervisee are engaged in a work setting in which the work is exempt from licensure requirements.

(ix) The supervisor shall submit appropriate documentation to the division with respect to all work completed by the supervisee during the period of supervised experience, including the supervisor's evaluation of the supervisee's competence to practice in the profession.

(x) The supervisor shall assure each supervisee has obtained the degree which is a prerequisite to the intern beginning to obtain qualifying experience.

(2) Experience Requirements - Professional Engineer.

(a) In accordance with Subsection 58-22-302(1)(e), an applicant for licensure as a professional engineer shall complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience, obtained while under the supervision of one or more licensed professional engineers, which experience has been certified by the licensed professional who provided the supervision documenting completion of a minimum of four years of full time or equivalent part time qualifying experience in professional engineering approved by the division in

collaboration with the board in accordance with the following:

(A) The qualifying experience must be obtained after meeting the education requirements.

(B) A maximum of three of the four years of qualifying experience may be approved by the board 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, as long as such research has not been credited towards the education requirements. Therefore research which is included as part of the classwork, thesis or dissertation or similar work is not acceptable as additional work experience.

(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).

(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) Experience should include demonstration of, knowledge, application, and practical solutions using engineering mathematics, physical and applied science, properties of materials and the fundamental principles of engineering design.

(3) Experience Requirements - Professional Structural Engineer.

(a) In accordance with Subsection 58-22-302(2)(e), each applicant shall submit verification of three years of full time or equivalent part time professional structural engineering experience obtained while under the supervision of one or more licensed professional structural engineers, 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;

(ii) structural design for a major seismic retrofit/rehabilitation of an existing building or structure 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.

(4) 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 complete the following qualifying experience requirements:

(i) Submit verification of qualifying experience obtained under the supervision of one or more licensed professional land surveyors who have provided supervision, 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 full time or equivalent part time 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, applicants who did not complete the education requirements in Subsection 58-22-302(3)(d)(i) shall have until December 31, 2009 to apply for licensure by documenting eight years of qualifying experience in land surveying.

(b) The four years of qualifying experience required in R156-22-302c(4)(a)(i)(A) and four of the eight years required in R156-22-302c(4)(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(4)(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).

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

(iii) 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).

(c) Prior to submitting an application for pre-approval to sit for the NCEES PE examination, an applicant must have successfully completed three out of the four years of 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).

(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) Prior to submitting an application for pre-approval to sit

for the NCEES Structural II examination, an applicant must have successfully completed two out of the three years of the experience requirements set forth in Subsection R156-22-302c(3).

(3) Examination Requirements - Professional Land Surveyor.

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

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

(ii) the NCEES Principles and Practice of [~~Land~~] Surveying ([~~PLS~~] PS) 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. An applicant who fails the Utah Local Practice Examination may retake the examination as follows:

(A) no sooner than 30 days following any failure, up to three failures; and

(B) no sooner than six months following any failure thereafter.

(b) Prior to submitting an application for pre-approval to sit for the NCEES [~~PLS~~] PS examination, an applicant must have successfully completed the education requirement set forth in Subsection R156-22-302b(2) and three out of the four years of the qualifying experience requirements set forth in Subsection R156-22-302c(4).

(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 [~~PLS~~] (FS) Examination or the

NCEES [~~PLS~~] (PS) 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~~] (FS) Examination or the [~~PLS~~] (PS) 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~~] March 31 of each [~~even~~] odd 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 this rule within two years prior to the date of application for reinstatement of licensure.

~~(9) The Division may waive continuing education in accordance with R156-1-308d.~~

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 63J-1-504; 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 this rule.~~

~~_____ (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 63J-1-504; and~~

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

_____ (1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the professional engineer, professional structural engineer or professional land surveyor licensee shall not engage in the profession for which the license was issued while the license is on inactive status except to identify the individual as an inactive licensee.

_____ (2) A license, prior to being placed on inactive status, shall be active and in good standing.

_____ (3) Inactive status licensees are not required to fulfill the continuing education requirement.

_____ (4) In addition to the requirements in Subsection R156-1-305(6) to reactivate an inactive license, a licensee shall provide documentation that the licensee, within two years of the license being reactivated, completed 24 hours of continuing education.

_____ (5) Prior to a license being reactivated, a licensee shall meet the requirements for license renewal.

[

~~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: \$800~~

~~Second Offense: \$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: \$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 or her 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, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-22-503(1)(i).~~

~~(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.]~~

R156-22-503. Administrative Penalties.

(1) In accordance with Subsection 58-22-503, the following fine schedule shall apply to citations issued to individuals licensed under Title 58, Chapters 1 and 22:

TABLE

FINE SCHEDULE

<u>Violation</u>	<u>First Offense</u>	<u>Second Offense</u>
<u>58-1-501(1)(a)</u>	<u>\$ 800.00</u>	<u>\$1,600.00</u>
<u>58-1-501(1)(b)</u>	<u>\$1,000.00</u>	<u>\$2,000.00</u>
<u>58-1-501(1)(c)</u>	<u>\$1,000.00</u>	<u>\$2,000.00</u>
<u>58-1-501(1)(d)</u>	<u>\$1,000.00</u>	<u>\$2,000.00</u>
<u>58-22-501(1)</u>	<u>\$ 800.00</u>	<u>\$1,600.00</u>
<u>58-22-501(2)</u>	<u>\$ 800.00</u>	<u>\$1,600.00</u>
<u>58-22-501(3)</u>	<u>\$ 800.00</u>	<u>\$1,600.00</u>
<u>58-22-501(4)</u>	<u>\$ 800.00</u>	<u>\$1,600.00</u>
<u>58-22-501(5)</u>	<u>\$ 800.00</u>	<u>\$1,600.00</u>

(2) 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, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-22-503(1)(i).

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

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

(5) 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.

KEY: [~~engineers, surveyors,~~]professional land surveyors,
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