

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	-	46b	-	202
Changed to Admin. Code Ref. (R no.):	R		-		-	

<b>1.</b>	<b>Agency:</b>	Commerce/Division of Occupational and Professional Licensing			
	<b>Room no.:</b>				
	<b>Building:</b>	Heber M. Wells Building			
	<b>Street address 1:</b>	160 East 300 South			
	<b>Street address 2:</b>				
	<b>City, state, zip:</b>	Salt Lake City UT 84111-2316			
	<b>Mailing address 1:</b>	PO Box 146741			
	<b>Mailing address 2:</b>				
	<b>City, state, zip:</b>	Salt Lake City UT 84114-6741			
	<b>Contact person(s):</b>				
	<b>Name:</b>	<b>Phone:</b>	<b>Fax:</b>	<b>E-mail:</b>	
	W. Ray Walker	801-530-6256	801-530-6511	raywalker@utah.gov	

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

<b>2.</b>	<b>Title of rule or section (catchline):</b>	Informal Adjudicative Proceedings			
<b>3.</b>	<b>Type of notice:</b>	New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___			
<b>4.</b>	<b>Purpose of the rule or reason for the change:</b>	The purpose of this filing is to remove redundancy in this section of rule and to make technical corrections.			
<b>5.</b>	<b>This change is a response to comments from the Administrative Rules Review Committee.</b>	No XXX; Yes ___			
<b>6.</b>	<b>Summary of the rule or change:</b>	Paragraphs (1)(p), (q) and (r) are redundant with Subsections R156-46b-202(1)(c) and R156-46b-202(2) (b), respectively, and are being deleted in this filing. Paragraphs (s) and (t) are renumbered accordingly.			
<b>7.</b>	<b>Aggregate anticipated cost or savings to:</b>				
	<b>A) State budget:</b>				
	<b>Affected:</b>	No ___; Yes XXX			
		The Division will incur minimal costs of approximately \$50.00 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. The filing will not cause any other cost or savings impact because it merely removes redundancies and makes technical corrections.			
	<b>B) Local government:</b>				

	<b>Affected:</b>	No XXX; Yes ____	
	The proposed amendments only apply to licensees in professions and occupations regulated by the Division and applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.		
	<b>C) Small businesses</b> ("small business" means a business employing fewer than 50 persons):		
	<b>Affected:</b>	No XXX; Yes ____	
	The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to small businesses.		
	<b>D) Persons other than small businesses, businesses, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):		
	<b>Affected:</b>	No XXX; Yes ____	
	The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to other persons.		
<b>8.</b>	<b>Compliance costs for affected persons:</b>		
	The proposed amendments merely remove redundancies and make technical corrections. Consequently, the Division does not anticipate any costs or savings impact to affected persons.		
<b>9.</b>	<b>A) Comments by the department head on the fiscal impact the rule may have on businesses:</b>		
	As stated in the rule analysis, this filing removes redundancies in existing provisions. No fiscal impact to businesses will result.		
	<b>B) Name and title of department head commenting on the fiscal impacts:</b>		
	Francine A. Giani, Executive Director		
<b>10.</b>	<b>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</b>		
	<b>State code or constitution citations (required)</b> (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :		
	Subsection 63G-4-102(6)	Subsection 58-1-106(1)(a)	
<b>11.</b>	<b>This rule adds, updates, or removes the following title of materials incorporated by references</b> (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i> ):		
		<b>First Incorporation</b>	<b>Second Incorporation</b>
	<b>Official Title of Materials Incorporated (from title page)</b>		
	<b>Publisher</b>		
	<b>Date Issued</b>		
	<b>Issue, or version</b>		
	<b>ISBN Number (optional)</b>		
	<b>ISSN Number (optional)</b>		
	<b>Cost of Incorporated Reference</b>		
	<b>Action: Adds, updates, or removes</b>		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
<b>12.</b>	<b>The public may submit written or oral comments to the agency identified in box 1.</b> (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.)		
	<b>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</b>	11/14/2013	

<b>B) A public hearing (optional) will be held:</b>		
<b>On (mm/dd/yyyy):</b>	<b>At (hh:mm AM/PM):</b>	<b>At (place):</b>
<b>13. This rule change may become effective on (mm/dd/yyyy):</b>	11/21/2013	
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.		
<b>14. Indexing information -- keywords</b> (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:		
administrative procedure	government hearings	
occupational licensing		
<b>15. Attach an RTF document containing the text of this rule change</b> (filename):	R156-46b.pro	
<b>To the agency:</b> 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.		
<b>AGENCY AUTHORIZATION</b>		
<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date (mm/dd/yyyy):</b> 09/24/2013

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-46b. Division Utah Administrative Procedures Act Rule.**  
**R156-46b-202. Informal Adjudicative Proceedings.**

(1) The following adjudicative proceedings initiated by [~~a request for agency action~~] other than by a notice of agency action are classified as informal adjudicative proceedings:

(a) approval of application for initial licensure, renewal or reinstatement of licensure, or relicensure;

(b) denial of application for initial licensure or relicensure;

(c) denial of application for renewal or reinstatement of licensure;

(d) approval or denial of application for inactive or emeritus licensure status;

(e) board of appeal under Subsection 15A-1-207(3);

(f) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11;

(g) payment of approved claims against the Residence Lien Recovery Fund described in Subparagraph (g);

(h) approval or denial of request to surrender licensure;

(i) approval or denial of request for entry into diversion program under Section 58-1-404;

(j) matters relating to diversion program;

(k) citation hearings held in accordance with citation authority established under Title 58;

(l) approval or denial of request for modification of disciplinary order;

(m) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as an informal adjudicative proceeding;

(n) approval or denial of request for correction of procedural or clerical mistakes;

(o) approval or denial of request for correction of other than procedural or clerical mistakes;

(p) [~~denial of application for renewal of:~~

~~— (i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;~~

~~— (ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and~~

~~— (iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306;~~

~~(q) denial of application for reinstatement of:~~

~~— (i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;~~

~~— (ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and~~

~~— (iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306;~~

~~(r) disciplinary proceedings against:~~

~~— (i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;~~

~~(ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and~~

~~(iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306;~~

~~(s)~~]disciplinary sanctions imposed in a stipulation or memorandum of understanding with an applicant for licensure; and

([~~t~~]g) all other requests for agency action permitted by statute or rule governing the Division not specifically classified as formal adjudicative proceedings in Subsection R156-46b-201(1).

(2) The following adjudicative proceedings initiated by a notice of agency action are classified as informal adjudicative proceedings:

(a) nondisciplinary proceeding which results in cancellation of licensure;

(b) disciplinary proceedings against:

(i) a contractor, plumber, electrician, or alarm company licensed under Title 58, Chapter 55;

(ii) a controlled substance licensee under Subsection 58-37-6(4)(g); and

(iii) a contract security company or armored car company for failure to replace a qualifier as required under Section 58-63-306.

(c) disciplinary proceedings initiated by a notice of agency action and order to show cause concerning violations of an order governing a license;

(d) disciplinary proceedings initiated by a notice of agency action in which the allegations of misconduct are limited to one or more of the following:

(i) Subsection 58-1-501(2)(c) or (d); or

(ii) Subsections R156-1-501(1) through (5).

**KEY: administrative procedure, government hearings, occupational licensing**

**Date of Enactment or Last Substantive Amendment: [~~October 9,~~ 2012]2013**

**Notice of Continuation: January 31, 2011**

**Authorizing, and Implemented or Interpreted Law: 63G-4-102(6); 58-1-106(1)(a)**