

**70C-8-105 Judicial review.**

- (1) Any party aggrieved by any rule, order, temporary order, decision, ruling, or other act or failure to act by the department under this title is entitled to judicial review. Within 30 days after receiving notice of a rule, order, temporary order, decision, or other ruling, or within 120 days after the department has failed to act upon a request or application, the aggrieved party may file an application for judicial review with a court of competent jurisdiction in the county in which the applicant is located or in the Third District Court. The court may void any rule, order, temporary order, decision, ruling, or other act of the department it finds to be arbitrary, capricious, an abuse of discretion, in excess of the department's authority, or otherwise contrary to law.
- (2) Any party upon showing that it may be subject to potential irreparable injury by any proposed rule or order of the department may, without exhausting its administrative remedies, apply for a declaratory judgment as to any question of law arising out of the rule or order. The applications shall be filed in the Third District Court.
- (3) Any action for judicial review of acts or failures to act of the department shall be heard by the court and shall be based on the record made before the department unless the court finds good cause to admit additional and otherwise proper evidence.
- (4) Filing an application for judicial review does not stay the adoption or enforcement of any rule, order, temporary order, decision, or ruling of the department. The court may expressly stay any rule, order, decision, or ruling of the department during the pendency of judicial proceedings challenging them upon terms and conditions it deems appropriate after finding that the possible harm to all interested parties is, on balance, likely to be less if the stay is imposed, or if the applicant and the department stipulate to the imposition of a stay.

Enacted by Chapter 159, 1985 General Session