

40-10-30 Judicial review of rules or orders.

- (1) Judicial review of adjudicative proceedings under this chapter is governed by Title 63G, Chapter 4, Administrative Procedures Act, and provisions of this chapter consistent with the Administrative Procedures Act.
- (2) Judicial review of the board's rulemaking procedures and rules adopted under this chapter is governed by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) An appeal from an order of the board shall be directly to the Utah Supreme Court and is not a trial de novo. The court shall set aside the board action if it is found to be:
 - (a) unreasonable, unjust, arbitrary, capricious, or an abuse of discretion;
 - (b) contrary to constitutional right, power, privilege, or immunity;
 - (c) in excess of statutory jurisdiction, authority, or limitations;
 - (d) not in compliance with procedure required by law;
 - (e) based upon a clearly erroneous interpretation or application of the law; or
 - (f) as to an adjudicative proceeding, unsupported by substantial evidence on the record.
- (4) An action or appeal involving an order of the board shall be determined as expeditiously as feasible and in accordance with Section 78A-3-102. The Utah Supreme Court shall determine the issues on both questions of law and fact and shall affirm or set aside the rule or order, enjoin or stay the effective date of agency action, or remand the cause to the board for further proceedings. Judicial review of disputed issues of fact shall be confined to the agency record. The court may, in its discretion, receive additional evidence for good cause shown.
- (5) If the board fails to perform any act or duty under this chapter which is not discretionary, the aggrieved person may bring an action in the district court of the county in which the operation or proposed operation is located.

Amended by Chapter 3, 2008 General Session
Amended by Chapter 382, 2008 General Session