

STATE AGENCY APPLICATION REVIEW REQUIREMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Thomas W. Peterson

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses procedures for a state agency to act on a request for agency action.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires for specified agencies that the agency respond within a specified time period to a request for agency action;
- ▶ addresses for specified agencies the procedures for determining that a request for agency action is complete;
- ▶ clarifies how other statutes apply;
- ▶ addresses federal preemption;
- ▶ provides that sections are to be interpreted to benefit a person seeking agency action; and
- ▶ addresses effect of noncompliance.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



28 13-1-19, Utah Code Annotated 1953
29 19-1-309, Utah Code Annotated 1953
30 79-1-105, Utah Code Annotated 1953

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **13-1-19** is enacted to read:

34 **13-1-19. Timing of department agency action.**

35 (1) As used in this section:

36 (a) "Agency" means the department or an agency, division, board, office, or other
37 subpart of the department.

38 (b) (i) "Agency action" means a paper-based or electronic action that grants authority to
39 engage in a specified activity under an applicable statute or a rule made under an applicable
40 statute, including:

41 (A) a permit;

42 (B) a plan;

43 (C) a license;

44 (D) a registration;

45 (E) a certificate;

46 (F) an approval order; or

47 (G) another administrative authorization made under an applicable statute.

48 (ii) Notwithstanding Subsection (1)(b)(i), "agency action" does not include:

49 (A) responding to a complaint;

50 (B) issuing a grant or loan;

51 (C) investigating a person engaging in a specified activity authorized by agency action;

52 or

53 (D) responding to a request under Title 63G, Chapter 2, Government Records Access
54 and Management Act.

55 (c) "Applicable statute" means the following to the extent that the statute governs
56 agency action:

57 (i) this title;

58 (ii) Title 16, Corporations;

- 59 (iii) Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;
60 (iv) Title 57, Real Estate;
61 (v) Title 58, Occupations and Professions;
62 (vi) Title 61, Securities Division - Real Estate Division;
63 (vii) Title 70, Trademarks and Trade Names; or
64 (viii) another state statute administered by an agency.
65 (d) "Application" means a request for agency action.
66 (e) "Complete application" means an application in a form approved by an agency that
67 contains all of the information required by statute or rule for the agency to issue an order.
68 (f) "Department" means the Department of Commerce.
69 (g) (i) "Order" means an order or final action issued by an agency under an applicable
70 statute that:
71 (A) approves an agency action;
72 (B) renews an agency action;
73 (C) denies an agency action;
74 (D) modifies or amends an agency action; or
75 (E) revokes and reissues an agency action.
76 (ii) "Order" does not include an order terminating an agency action.
77 (2) An agency shall issue an order related to agency action by no later than the later of:
78 (a) 30 days after the day on which the agency receives a complete application seeking
79 agency action; or
80 (b) if the applicable statute provides for public comment, 30 days after the day on
81 which the time period ends for the agency to review public comments.
82 (3) (a) An agency shall determine by no later than 15 days from the day on which an
83 application is filed with the agency whether the application is complete.
84 (b) If a person files an application for agency action that an agency determines is
85 incomplete, the agency shall notify the person within the 15-day period described in Subsection
86 (3)(a):
87 (i) that the application is incomplete; and
88 (ii) what the person needs to do to complete the application.
89 (c) If a person submits an application a second time to address what the agency notified

90 the person needed to be done under Subsection (3)(b)(ii) to complete the application, the
91 agency may not raise an additional issue concerning the completeness of the application unless
92 the agency can demonstrate that the issue is based on new information obtained after the
93 agency sent the notice required under Subsection (3)(b).

94 (d) An agency shall publish on a public website for each type of agency action the
95 requirements for an application to be considered a complete application.

96 (4) (a) Notwithstanding Subsection (2) or (3), if an applicable statute provides:

97 (i) for a shorter time period for an agency to act than required by this section, the
98 shorter time period applies; or

99 (ii) greater protections for determining that an application is complete, the greater
100 protections apply.

101 (b) If the applicable statute provides:

102 (i) for a longer time period for an agency to act than required by this section, the time
103 period in this section applies; or

104 (ii) lesser protection for determining that an application is complete, the protections
105 under Subsection (3) apply.

106 (5) A petition appealing, either administratively or judicially, an order related to an
107 application seeking agency action is not subject to the requirements of this section.

108 (6) This section shall be interpreted in a manner that provides the greatest protection to
109 a person seeking agency action.

110 (7) This section does not apply to an agency action if application of this section to the
111 agency action is preempted by federal law.

112 (8) An application for agency action is considered approved if an agency fails to
113 comply with this section.

114 Section 2. Section **19-1-309** is enacted to read:

115 **19-1-309. Timing of department agency action.**

116 (1) As used in this section:

117 (a) "Agency" means the department or an agency, division, board, office, or other
118 subpart of the department.

119 (b) (i) "Agency action" means a paper-based or electronic action that grants authority to
120 engage in a specified activity under an applicable statute or a rule made under an applicable

- 121 statute, including:
- 122 (A) a permit;
- 123 (B) a plan;
- 124 (C) a license;
- 125 (D) a registration;
- 126 (E) a certificate;
- 127 (F) an approval order; or
- 128 (G) another administrative authorization made under an applicable statute.
- 129 (ii) Notwithstanding Subsection (1)(b)(i), "agency action" does not include:
- 130 (A) responding to a complaint;
- 131 (B) issuing a grant or loan;
- 132 (C) investigating a person engaging in a specified activity authorized by agency action;
- 133 or
- 134 (D) responding to a request under Title 63G, Chapter 2, Government Records Access
- 135 and Management Act.
- 136 (c) "Applicable statute" means the following to the extent that the statute governs
- 137 agency action:
- 138 (i) this title; or
- 139 (ii) another state statute administered by an agency.
- 140 (d) "Application" means a request for agency action.
- 141 (e) "Complete application" means an application in a form approved by an agency that
- 142 contains all of the information required by statute or rule for the agency to issue an order.
- 143 (f) (i) "Order" means an order or final action issued by an agency under an applicable
- 144 statute that:
- 145 (A) approves an agency action;
- 146 (B) renews an agency action;
- 147 (C) denies an agency action;
- 148 (D) modifies or amends an agency action; or
- 149 (E) revokes and reissues an agency action.
- 150 (ii) "Order" does not include an order terminating an agency action.
- 151 (2) An agency shall issue an order related to agency action by no later than the later of:

152 (a) 30 days after the day on which the agency receives a complete application seeking
153 agency action; or

154 (b) if the applicable statute provides for public comment, 30 days after the day on
155 which the time period ends for the agency to review public comments.

156 (3) (a) An agency shall determine by no later than 15 days from the day on which an
157 application is filed with the agency whether the application is complete.

158 (b) If a person files an application for agency action that an agency determines is
159 incomplete, the agency shall notify the person within the 15-day period described in Subsection

160 (3)(a):

161 (i) that the application is incomplete; and

162 (ii) what the person needs to do to complete the application.

163 (c) If a person submits an application a second time to address what the agency notified
164 the person needed to be done under Subsection (3)(b)(ii) to complete the application, the
165 agency may not raise an additional issue concerning the completeness of the application unless
166 the agency can demonstrate that the issue is based on new information obtained after the
167 agency sent the notice required under Subsection (3)(b).

168 (d) An agency shall publish on a public website for each type of agency action the
169 requirements for an application to be considered a complete application.

170 (4) (a) Notwithstanding Subsection (2) or (3), if an applicable statute provides:

171 (i) for a shorter time period for an agency to act than required by this section, the
172 shorter time period applies; or

173 (ii) greater protections for determining that an application is complete, the greater
174 protections apply.

175 (b) If the applicable statute provides:

176 (i) for a longer time period for an agency to act than required by this section, the time
177 period in this section applies; or

178 (ii) lesser protection for determining that an application is complete, the protections
179 under Subsection (3) apply.

180 (5) A petition appealing, either administratively or judicially, an order related to an
181 application seeking agency action is not subject to the requirements of this section.

182 (6) This section shall be interpreted in a manner that provides the greatest protection to

183 a person seeking agency action.

184 (7) This section does not apply to an agency action if application of this section to the
185 agency action is preempted by federal law.

186 (8) An application for agency action is considered approved if an agency fails to
187 comply with this section.

188 Section 3. Section **79-1-105** is enacted to read:

189 **79-1-105. Timing of department agency action.**

190 (1) As used in this section:

191 (a) "Agency" means the department or an agency, division, board, office, or other
192 subpart of the department.

193 (b) (i) "Agency action" means a paper-based or electronic action that grants authority to
194 engage in a specified activity under an applicable statute or a rule made under an applicable
195 statute, including:

196 (A) a permit;

197 (B) a plan;

198 (C) a license;

199 (D) a registration;

200 (E) a certificate;

201 (F) an approval order, including action regarding a notice of intention or surety for a
202 mining operation;

203 (G) a finding that a notice of intention is complete for a small mining operation;

204 (H) a water right or action on a change application; or

205 (I) another administrative authorization made under an applicable statute.

206 (ii) Notwithstanding Subsection (1)(b)(i), "agency action" does not include:

207 (A) responding to a complaint;

208 (B) issuing a grant or loan;

209 (C) investigating a person engaging in a specified activity authorized by agency action;

210 or

211 (D) responding to a request under Title 63G, Chapter 2, Government Records Access
212 and Management Act.

213 (c) "Applicable statute" means the following to the extent that the statute governs

214 agency action:

215 (i) this title;

216 (ii) Title 23A, Wildlife Resources Act;

217 (iii) Title 40, Mines and Mining;

218 (iv) Title 65A, Forestry, Fire, and State Lands;

219 (v) Title 73, Water and Irrigation; or

220 (vi) another state statute administered by an agency.

221 (d) "Application" means a request for agency action.

222 (e) "Complete application" means an application in a form approved by an agency that
223 contains all of the information required by statute or rule for the agency to issue an order.

224 (f) (i) "Order" means an order or final action issued by an agency under an applicable
225 statute that:

226 (A) approves an agency action;

227 (B) renews an agency action;

228 (C) denies an agency action;

229 (D) modifies or amends an agency action; or

230 (E) revokes and reissues an agency action.

231 (ii) "Order" does not include an order terminating an agency action.

232 (2) An agency shall issue an order related to agency action by no later than the later of:

233 (a) 30 days after the day on which the agency receives a complete application seeking
234 agency action; or

235 (b) if the applicable statute provides for public comment, 30 days after the day on
236 which the time period ends for the agency to review public comments.

237 (3) (a) An agency shall determine by no later than 15 days from the day on which an
238 application is filed with the agency whether the application is complete.

239 (b) If a person files an application for agency action that an agency determines is
240 incomplete, the agency shall notify the person within the 15-day period described in Subsection

241 (3)(a):

242 (i) that the application is incomplete; and

243 (ii) what the person needs to do to complete the application.

244 (c) If a person submits an application a second time to address what the agency notified

245 the person needed to be done under Subsection (3)(b)(ii) to complete the application, the
246 agency may not raise an additional issue concerning the completeness of the application unless
247 the agency can demonstrate that the issue is based on new information obtained after the
248 agency sent the notice required under Subsection (3)(b).

249 (d) An agency shall publish on a public website for each type of agency action the
250 requirements for an application to be considered a complete application.

251 (4) (a) Notwithstanding Subsection (2) or (3), if an applicable statute provides:

252 (i) for a shorter time period for an agency to act than required by this section, the
253 shorter time period applies; or

254 (ii) greater protections for determining that an application is complete, the greater
255 protections apply.

256 (b) If the applicable statute provides:

257 (i) for a longer time period for an agency to act than required by this section, the time
258 period in this section applies; or

259 (ii) lesser protection for determining that an application is complete, the protections
260 under Subsection (3) apply.

261 (5) A petition appealing, either administratively or judicially, an order related to an
262 application seeking agency action is not subject to the requirements of this section.

263 (6) This section shall be interpreted in a manner that provides the greatest protection to
264 a person seeking agency action.

265 (7) This section does not apply to an agency action if application of this section to the
266 agency action is preempted by federal law.

267 (8) An application for agency action is considered approved if an agency fails to
268 comply with this section.

269 **Section 4. Effective date.**

270 This bill takes effect on May 1, 2024.