

1                   **STATE AGENCY APPLICATION REVIEW REQUIREMENTS**

2   2024 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Thomas W. Peterson**

5                                   Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

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

10 **Highlighted Provisions:**

11           This bill:

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

22 **Money Appropriated in this Bill:**

23           None

24 **Other Special Clauses:**

25           None

26 **Utah Code Sections Affected:**

27 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

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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.