

WAC 230-17-180 Petitions for declaratory orders. (1) Any person may petition the commission for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the agency. The petition must set forth facts and reasons on which the petitioner relies to show:

(a) That uncertainty necessitating resolution exists; and

(b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory option; and

(c) That the uncertainty adversely affects the petitioner; and

(d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested.

(2) Within fifteen days after receipt of a petition for a declaratory order, the commission must give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person it deems desirable.

(3) Within thirty days after receipt of a petition for a declaratory order, the commission, in writing, must do one of the following:

(a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances; or

(b) Set the matter for specified proceedings to be held no more than ninety days after receipt of the petition and give reasonable notification to the person(s) of the time and place for such hearing and of the issues involved; or

(c) Set a specified time no more than ninety days after receipt of the petition by which it will enter a declaratory order; or

(d) Decline to enter a declaratory order, stating the reasons for its action.

(4) The time limits of subsection (3)(b) and (c) of this section may be extended by the commission for good cause.

(5) The commission may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

(6) A declaratory order has the same status as any other order entered by the commission in an adjudicative proceeding. Each declaratory order must contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

(7) Any person petitioning the commission for a declaratory order pursuant to RCW 34.05.240 must generally adhere to the following form for such purpose.

(a) At the top of the page must appear the wording "before the Washington state gambling commission." On the left side of the page below the foregoing, the following caption must be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption must appear the word "petition."

(b) The body of the petition must be set out in numbered paragraphs. The first paragraph must state the name and address of the petitioning party. The second paragraph must state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs must set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs must contain the prayer of the petitioner. The petition must be subscribed and verified in the

manner prescribed for verification of complaints in the superior courts of this state.

(c) The original must be filed with the commission. Petitions must be on white paper, either 8-1/2" x 11" or 8-1/2" x 13" in size.

[Statutory Authority: RCW 9.46.070. WSR 07-21-156 (Order 615), § 230-17-180, filed 10/24/07, effective 1/1/08.]