

WAC 480-07-825 Initial orders—Finality; petitions for administrative review; motions for clarification. (1) Initial order finality.

(a) An initial order will conclude a proceeding and thus be considered final unless within the time for petitioning for administrative review:

(i) A party timely petitions for administrative review; or

(ii) The commission notifies the parties that it intends to review the initial order.

(b) Parties that seek finality of an initial order before the end of the petition period may waive the right to seek administrative review. If all parties waive review, the order will become final on the day the commission issues a notice of finality declining to exercise administrative review or when the time for exercising such review ends.

(c) An initial order that becomes final by operation of law does not reflect a decision by the commissioners and has no precedential value. Such orders, if cited, must be identified as initial orders.

(2) **Petition for administrative review.** A party may challenge any finding of fact, conclusion of law, remedy, or result in an initial order by petitioning for administrative review. A party also may petition for administrative review to challenge the reasons stated in support of any result reached in an initial order. The commission will accept only one petition for administrative review of an initial order from any party.

(a) *Timing of petition.* A party must file and serve any petition for administrative review within twenty days after the commission serves the initial order. The commission may extend or shorten the time on a showing of good cause.

(b) *Contents.* Petitions for administrative review must not exceed thirty pages in length and must conform to the following requirements:

(i) Every petition must identify with specificity the nature of each challenge to the initial order. The petitioner must separately state and number every contention.

(ii) A petition that challenges a finding of fact must cite the page or part of the record that includes the evidence on which the petitioner relies to support its challenge and should include a recommended finding of fact.

(iii) A petition that challenges a conclusion of law must cite the statute, rule, case law, or other legal authority on which the petitioner relies to support its challenge and should include a recommended conclusion of law.

(iv) A petition that challenges the summary or discussion portion of an initial order must include a statement showing the legal or factual justification for the challenge, and a statement of how the asserted defect affects the findings of fact, the conclusions of law, and the ultimate decision.

(c) *Responses.*

(i) Who may respond. Any party to the adjudication may respond to another party's petition for administrative review.

(ii) Filing and service. A response to a petition for administrative review must be filed and served within ten days after the petitioner files and serves its petition unless the commission establishes a different deadline.

(iii) Challenge to order in response. A party that did not petition for administrative review of an initial order may challenge the

order or portions of the order in its response to the petition of another party if that challenge is in response, or otherwise reasonably related, to the issues raised in the petition.

(d) *Reply.*

(i) *By right.* A party has the right to reply to new challenges to the order that are included in another party's response as authorized in (c)(iii) of this subsection.

(ii) *By leave of commission.* A party otherwise has no right to reply to a response, but may petition for leave to reply. Any such petition must cite new issues raised in the response, state why the petitioner could not have reasonably anticipated those issues, and explain why a reply is necessary. The petitioner should attach a reply to the petition for leave to accept the reply.

(iii) *Timing.* The petitioner must file its reply or a petition for leave to reply no later than five days after the respondent submits its response. The commission may extend the time on a showing of good cause.

(e) *Oral argument.* A party may request oral argument before the commissioners, but any such request must demonstrate that oral argument is necessary to assist the commission in making its decision on the petition for administrative review and that the written presentations are insufficient.

(3) **Motion for clarification of initial order.** Any party that does not seek to change the substantive outcome or reasoning of an initial order may file a motion for clarification of that order within five days after the commission serves the order.

(a) *Purpose.* The purpose of a motion for clarification of an initial order is to correct obvious or ministerial error without the need for parties to request administrative review.

(b) *Response.* No party may file a response to a motion for clarification unless requested by the commission.

(c) *Effect.* Filing a motion for clarification does not automatically toll the time for filing a petition for administrative review or for compliance with the initial order. A party may request in its motion for clarification that the commission toll or otherwise extend the time for filing a petition for administrative review or for complying with the initial order. The party making the request must demonstrate good cause for the extension.

(d) *Order denying or granting clarification.* The presiding administrative law judge will enter an order either denying the motion or granting the motion and providing clarification within five days after the party files the motion. A party may seek administrative review of an order granting or denying clarification either:

(i) In a petition for administrative review of that order filed by the deadline for filing a petition for administrative review of the original initial order; or

(ii) As part of the party's petition for administrative review of the original initial order.

(4) **Commission-initiated review.** The commission may initiate review of an initial order on the commission's own motion by serving a notice that the commissioners intend to review the order. The notice will establish a schedule for parties to state their positions on the initial order and make supporting arguments. The notice may invite the parties to address specific issues relating to the initial order.

(5) **Administrative law judge.** An administrative law judge other than the administrative law judge who entered the initial order will

assist the commissioners to enter a final order on review of the initial order.

(6) **Final order.** The commission may enter a final order that adopts, modifies, or rejects an initial order. Alternatively, the commission may remand the matter for further proceedings with instructions to the presiding officer.

(7) **Judicial review.** The statutory time for filing a petition for judicial review commences when the commission serves its final order or when an initial order becomes final under RCW 80.01.060(3) and subsection (1) of this section; provided that, if a party timely files a petition for reconsideration of the final order and complies with the commission's procedural rules governing reconsideration, the time for filing a petition for judicial review commences on the date on which the commission serves an order granting or denying the petition for reconsideration, or the date on which the petition is deemed denied as a matter of law, as provided in RCW 34.05.470.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-18-041 (Docket A-130355, General Order R-592), § 480-07-825, filed 8/29/18, effective 9/29/18; WSR 06-17-126 (Docket A-060357, General Order No. R-538), § 480-07-825, filed 8/21/06, effective 9/21/06. Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-825, filed 11/24/03, effective 1/1/04.]