

63G-4-503 Declaratory orders.

- (1) Any person may file a request for agency action, requesting that the agency issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the agency to specified circumstances.
- (2) Each agency shall issue rules that:
 - (a) provide for the form, contents, and filing of petitions for declaratory orders;
 - (b) provide for the disposition of the petitions;
 - (c) define the classes of circumstances in which the agency will not issue a declaratory order;
 - (d) are consistent with the public interest and with the general policy of this chapter; and
 - (e) facilitate and encourage agency issuance of reliable advice.
- (3)
 - (a) An agency may not issue a declaratory order if:
 - (i) the request is one of a class of circumstances that the agency has by rule defined as being exempt from declaratory orders; or
 - (ii) the person requesting the declaratory order participated in an adjudicative proceeding concerning the same issue within 12 months of the date of the present request.
 - (b) An agency may issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party, only if that person consents in writing to the determination of the matter by a declaratory proceeding.
- (4) Persons may intervene in declaratory proceedings if:
 - (a) they meet the requirements of Section 63G-4-207; and
 - (b) they file timely petitions for intervention according to agency rules.
- (5) An agency may provide, by rule or order, that other provisions of Sections 63G-4-202 through 63G-4-302 apply to declaratory proceedings.
- (6)
 - (a) After receipt of a petition for a declaratory order, the agency may issue a written order:
 - (i) declaring the applicability of the statute, rule, or order in question to the specified circumstances;
 - (ii) setting the matter for adjudicative proceedings;
 - (iii) agreeing to issue a declaratory order within a specified time; or
 - (iv) declining to issue a declaratory order and stating the reasons for its action.
 - (b) A declaratory order shall contain:
 - (i) the names of all parties to the proceeding on which it is based;
 - (ii) the particular facts on which it is based; and
 - (iii) the reasons for its conclusion.
 - (c) A copy of all orders issued in response to a request for a declaratory proceeding shall be mailed promptly to the petitioner and any other parties.
 - (d) A declaratory order has the same status and binding effect as any other order issued in an adjudicative proceeding.
- (7) Unless the petitioner and the agency agree in writing to an extension, if an agency has not issued a declaratory order within 60 days after receipt of the petition for a declaratory order, the petition is denied.

Renumbered and Amended by Chapter 382, 2008 General Session