

WAC 371-08-415 Stays. (1) A person appealing an order not stayed by the issuing agency, and not issued pursuant to chapter 76.09 RCW may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the notice of appeal or in a subsequent motion. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which the request is based.

(3) Upon receipt of a request for a stay, the board will confer with the parties regarding its disposition. If necessary, a hearing on the motion will be held. If it appears that a hearing on the merits and issues of the case should be consolidated with the request for a stay, the board will advance the hearing date on its own initiative or by request of the parties.

(4) The requestor makes a prima facie case for a stay if the requestor demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the board shall grant the stay unless the agency demonstrates either:

(a) A substantial probability of success on the merits; or

(b) Likelihood of success and an overriding public interest which justifies denial of the stay.

(5) Unless otherwise stipulated by the parties, the board, after granting or denying a request for a stay, shall expedite the hearing and decision on the merits.

(6) Any party aggrieved by the grant or denial of a stay by the board may petition the superior court of Thurston County for review of that decision pending the hearing on the merits before the board.

(7) A person appealing an order not stayed by the issuing agency and issued pursuant to chapter 76.09 RCW may obtain a stay of the effectiveness of that order pursuant to WAC 223-08-087.

[Statutory Authority: RCW 43.21B.170, 43.21B.110 (1)(j), 34.05.422(4), and 34.05.479. WSR 19-19-054, § 371-08-415, filed 9/13/19, effective 10/14/19. Statutory Authority: RCW 43.21B.170. WSR 96-15-003, § 371-08-415, filed 7/3/96, effective 8/3/96.]