

1509-1-01

**Official address of the oil and gas commission.**

The oil and gas commission, state of Ohio, shall maintain its official office at "Oil and Gas Commission, 2045 Morse Road, Columbus, Ohio 43229." The official number for facsimile filing of documents with the commission is 614-262-1306. The official telephone number for the commission is 614-262-1269. ~~Documents to be filed with the commission should be accompanied by a cover letter which clearly states the purpose of the filing, and which is addressed to the commission's executive director.~~ The e-mail address for the commission's office is linda.osterman@dnr.state.oh.us. Additional information regarding the oil & gas commission can be found at <http://oilandgas.ohiodnr.gov/commission>.

1509-1-02

**Definitions.**

- (A) "Adjudication hearing" means a trial-type proceeding at which the parties may introduce evidence relevant to the resolution of disputed issues of fact.
- (B) "Appellant" means a person, claiming to be aggrieved or adversely affected by an order of the chief of the division of mineral oil and gas resources management, who is applying or petitioning for review or relief, and who is requesting a hearing before the commission.
- (C) "Appellee" means the division of mineral oil and gas resources management.
- (D) "Chief" means the chief of the division of mineral oil and gas resources management.
- (E) "Commission" means the oil and gas commission, as established by section 1509.35 of the Revised Code.
- (F) "Discovery" means the ascertainment of information made pursuant to rule 1509-1-17 of the Administrative Code.
- (G) "Division" means the division of mineral oil and gas resources management.
- (H) "Final Order of the Commission" means a determination of rights, claims and liabilities of the parties to an action issued by the commission, which is appealable to the courts pursuant to section 1509.37 of the Revised Code.
- (I) "Interested Person" means any person having a pecuniary or proprietary interest directly affected by an appeal before the commission.
- (J) "Intervenor" means any person granted the right to intervene pursuant to rule 1509-1-14 of the Administrative Code.
- (K) "Order Recipient" means any person that is the subject of an order issued by the chief requiring such person to either perform some act or refrain from some course of activity, or informing said person of certain rights, duties or obligations.
- (L) "Owner" shall have the same meaning as provided in division (K) of section 1509.01 of the Revised Code.
- (M) "Parties" to an appeal before the oil and gas commission means the appellant, the appellee and any person granted intervenor status by the commission, including an interested person, who has requested and has been granted intervenor status.

- (N) "Person" means any individual, partnership, corporation, board, association or other entity, or any political subdivision, instrumentality or agency of this state or the United States.
- (O) "Regular Business Hours" for the oil and gas commission means ten a.m. to six p.m., Monday through Friday, except for state holidays or other days in which offices of the government of the state of Ohio are permitted to close due to weather, safety or other unforeseeable events which present a risk to the public or to the commission employees.
- (P) "Royalty Interest" shall have the same meaning as provided in division (L) of section 1509.01 of the Revised Code.
- (Q) "Rules of the oil and gas commission" means rules 1509-1-01 to 1509-1-26 of the Administrative Code, unless specifically provided otherwise.
- (R) "Temporary Relief" means a suspension of the effect of an ~~action~~order of the division chief under the terms and conditions imposed by the commission pursuant to rule 1509-1-12 of the Administrative Code.



1509-1-04

**Appearances before the commission.**

- (A) Appearances before the commission shall be by parties as defined in rule 1509-1-02 of the Administrative Code.
- (B) Appearances before the commission shall be in person, or if the party is a partnership, then by a member of said partnership, or if a party is a corporation, then by an officer of said corporation, or if the party is a board, association or other entity, then by a member of said board, association or entity, or by the attorney for said individual, partnership, corporation, board, association or other entity. The commission may, in its discretion, require that corporations, limited liability companies and associations be represented by counsel.
- (C) Any person deemed to be an interested person may appear before the commission, and may participate in an appeal to the extent, and in the manner, allowed by the commission. An interested person may petition for intervenor status pursuant to rule 1509-1-14 of the Administrative Code.
- (D) All persons appearing before the commission shall conform to the standards of ethical conduct required in appearances in the courts of the state of Ohio. The commission shall have the authority, for good cause stated in the record, to bar from participation in a particular proceeding any person who shall refuse to comply with the commission's directions, or who shall be guilty of disorderly conduct, dilatory tactics, or contemptuous language in the course of such proceeding.

1509-1-05

**Ex parte contacts or communications.**

No party to an action before the commission, or their counsel, associates, compatriots or any other person acting on behalf of a party, shall seek or make an ex parte contact or communication, either directly or indirectly, with any member of the commission concerning substantive issues of a pending appeal.

1509-1-06

**Meetings, hearings and calendar.**

The commission will meet from time to time as it deems necessary, at a time set by the commission, at either its official office or at other locations selected by the commission. The time and location for an adjudicatory hearing shall be set forth within a notice of hearing issued to the parties to an appeal. The time and location for commission ~~meetings~~hearings shall be announced in the "Hannah Report" published by the Hannah news service. Notice of commission hearings shall also be posted at <http://oilandgas.ohiodnr.gov/commission>.

ACTION: No Change

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1509-1-07

**Minutes.**

Minutes of all meetings of the commission will be promptly recorded and shall be open to public inspection during regular business hours at the commission's office.

1509-1-08

**Availability of commission records and files.**

- (A) The records and files of the commission shall be maintained at the commission's office and shall be available for inspection and examination during regular business hours. Papers and files of the commission, or parts thereof, shall not be removed from the custody of the commission without the specific consent of the commission. The records and files of the commission, including transcripts or recordings of any proceedings before the commission, may be made available for reproduction upon application to the commission and payment of reasonable reproduction costs.
- (B) Any person who wishes to receive regular notification of notices or decisions of the commission, may file a request to receive such notification with the commission's executive director. The request for regular notification must state with particularity the type of notices or decisions desired, and must include an address to which the regular notification shall be sent. A request for regular notification shall be valid for one year, and may be renewed by filing a written request to this effect with the commission's executive director.





1509-1-11

**Appeals to the commission.**

- (A) All appeals from orders of the chief of the division to the commission shall be made by filing written notice to such effect with the commission within thirty days after the date upon which the order recipient received notice by registered or certified mail of the making of the order complained of or, for all other persons adversely affected by an order of the division chief, within thirty days after the date of the chief's issuance of the order complained of.
- (B) A copy of the notice of appeal shall be filed with the chief of the division within three days of the filing of such notice with the commission.
- (C) An appeal must be made in writing ~~and submitted on standard office sized white paper.~~
- (D) A notice of appeal must state clearly the order appealed from, the relief sought, a brief statement of the facts involved in the appeal, and the specific grounds which are the basis for the appeal, and the statutory authority of the commission to grant the requested relief requested review.
- (E) A copy of the order being appealed from should be included with, or appended to, the notice of appeal.
- (F) All notices of appeal filed with the commission must contain the address of the appellant, and the name and address of the attorney representing the appellant, if any.
- (G) All notices of appeal shall be signed by the appellant or by the appellant's attorney, and the signature thereon shall constitute a certificate that, to the best of the appellant's knowledge, the information contained in the notice of appeal is true.
- (H) A notice of appeal may be amended without leave of the commission during the time allowed for original filing, or a notice of appeal may be amended by leave of the commission at any time after the time allowed for original filing. Amendment of a notice of appeal may not be employed to cure jurisdictional defects in the filing of the notice of appeal, unless the amendment is filed within the time allowed for original filing of a notice of appeal.
- (I) Failure to comply with the provisions of section 1509.36 of the Revised Code governing the filing of appeals with the commission shall be sufficient basis for dismissing an appeal.

1509-1-12

**Temporary relief.**

The filing of an appeal with the commission does not automatically suspend or stay execution of the order appealed from. An appellant may request temporary relief from the order under appeal, or may apply to the commission to suspend or stay the execution of the order appealed from. Such request must be submitted in writing to the office of the commission. The commission will consider such request and may grant temporary relief from an order ~~under appeal.~~ suspend an order or stay the execution of an order upon such terms and conditions, as the commission considers proper.

1509-1-13

**Interested persons.**

- (A) An interested person in an appeal before the commission is a person having a pecuniary or proprietary interest directly affected by an appeal before the commission, as defined in rule 1509-1-02 of the Administrative Code.
- (B) In the event that a question arises concerning whether a person is an interested person in an appeal, the commission may make a determination as to whether said person qualifies as an interested person. A person claiming to be an interested person in an appeal shall have the burden of establishing their status as an interested person.
- (C) An interested person may petition to intervene into an existing action before the commission. If granted intervenor status, the interested person shall be allowed to participate in such proceeding in the manner set forth in rule 1509-1-14 of the Administrative Code.
- (D) If an interested person has not demonstrated an interest in all of the issues presented in a particular appeal, the commission may limit the interested person's participation to only those issues in which an interest has been established.

1509-1-14

**Intervention, participation by amicus curiae.**

- (A) Any person may petition for leave to intervene at any stage of a proceeding before the commission. A petitioner for intervention shall have the burden of showing an interest which is or may be affected by the outcome of a proceeding before the commission.
- (B) The commission may consider the following in determining whether intervention is appropriate:
- (1) The nature of the issues;
  - (2) The adequacy of representation of the petitioner's interest which is provided by the existing parties to the proceeding; and
  - (3) The ability of the petitioner to present relevant evidence and argument.
- (C) Any person granted leave to intervene in a proceeding may participate in such proceeding as a full party, or, if desired by the Intervenor or so determined by the commission, in a capacity less than that of a full party. If an Intervenor is to participate in a limited capacity, the extent and the terms of the participation shall be in the discretion of the commission and shall be set forth when the commission rules upon the petition for intervention.
- (D) The commission may allow the filing of briefs and permit oral argument at hearing by an amicus curiae. A person wishing to participate in an appeal as an amicus curiae shall move the commission for permission to so participate. Amicus curiae participation is discretionary and will be permitted only upon the terms and conditions imposed by the commission.

1509-1-15

**Notice of adjudication hearing.**

- (A) When an appeal has been placed upon the calendar, the commission will, not less than ~~ten~~fourteen days in advance, notify the parties to an appeal of the place where, and the date and time when, the appeal will be called for hearing.
- (B) If so ordered by the commission, The the Appellant appellant shall be responsible for notifying all holders of a royalty interest as defined in rule 1509-1-02 of the Administrative Code, and, if the appellant is not the well owner, the appellant shall be responsible for notifying the well owner as defined in rule 1509-1-02 of the Administrative Code, of the place where, and the date and time when, the hearing will be held. Such notice shall be given by appellant by registered or certified mail, return receipt requested, in the manner directed by the commission, and not less than ten days in advance of hearing unless otherwise determined by the commission. If the commission requires the appellant to provide such notice, the commission will so notify the appellant in writing and within sufficient time to allow the appellant to provide the required notice.
- (C) Notice of hearing sent by ~~registered or~~ certified mail to a party at the last known address of such person shall be deemed sufficient notice of hearing if mailed at least ~~ten~~fourteen days prior to the date set for hearing.

1509-1-16

**Continuances.**

Continuances may be ordered by the commission on its own motion, or may be granted by the commission in its discretion, upon application of any party, filed in writing and showing good and sufficient cause therefor. If such application is made, it must be made ~~seasonably and in any event~~ not less than ~~five~~seven days prior to the date set for hearing. An application for continuance must be directed to the commission and not to an individual commission member, and may be acted upon only by the commission. This rule shall be without prejudice to the right of the commission to continue a hearing to a later date.

1509-1-17

**Discovery, depositions.**

Parties to a proceeding before the commission may obtain discovery in preparing their case. Discovery shall be conducted in accordance with the procedural provisions of the "Ohio Rules of Civil Procedure." Depositions may be taken, ~~and if taken, must be filed with the commission,~~ and may be used by any party in the same manner and to the same extent as is permissible in the common pleas courts of this state. The party taking the deposition shall have the obligation of paying the costs thereof. The use of a deposition in lieu of the deponent's oral testimony at hearing shall be allowed under the same provisions as are articulated in rule 32 of the "Ohio Rules of Civil Procedure." A party desiring to use a deposition, or any designated part thereof, at hearing shall file the deposition with the commission and serve written notice to every other party at least five days prior to hearing. Objections may be made at hearing to receiving in evidence any written testimony for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

1509-1-18

**Subpoenas.**

If a party to a proceeding pending before the commission desires to secure the attendance of a witness to testify in said party's behalf, said party shall, at least ~~eight~~twelve days prior to the date of hearing thereon, unless such time is lessened by the commission, file with the commission a praecipe therefor comparable to like praecipis used in proceedings ~~pending~~ before a common pleas court. The full name and address, including street name and number and county of residence, of the witness must be given; and if the praecipe is for a subpoena duces tecum, the specific books and records which the witness is required to bring with him shall be described in detail. Witness fees, if any, shall be paid directly to said witness by the party filing the praecipe therefor.

1509-1-19                    **Motions, briefs.**

- (A) Except for oral motions made upon the record at hearing, a motion shall be in writing and shall state with particularity the grounds upon which it is based.
- (B) Unless otherwise directed by the commission, a party must file written motions at least ten days in advance of hearing. The ten day deadline for filing a motion may be waived or shortened, if the movant demonstrates that unusual circumstances exist justifying an exception to this rule.
- (C) Unless otherwise directed by the commission, any party to a proceeding shall have ~~ten~~seven days from service of a motion, or until hearing, whichever is earlier, to file a response to said motion.
- (D) The commission may grant a motion for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the proceeding before the commission.
- (E) In any matter or cause pending before the commission, the commission may request that briefs be furnished by the parties to the appeal, within a time limited by the commission, ~~but not less than ten days after request thereof~~. Responsive briefs may be filed as determined by, and within a time limited by, the commission.
- (F) Upon motion made and with leave of the commission as set forth in rule 1509-1-14 of the Administrative Code, amicus curiae briefs may be filed.
- (G) Any application for an extension of time will be denied unless there is incorporated therein a good and sufficient reason for any such extension.
- (H) Briefs, motions and responses which are filed with the commission shall be legible and shall ~~conform in all other appropriate respects to the requirements of rule 1509-1-11 of the Administrative Code~~ be signed by the party or by the party's attorney.
- (I) If papers filed with the commission cite case law as authority in support of argument, the filing must include a copy of the case law cited and must refer to the page number or paragraph where the relevant language is found.

1509-1-20                    **Conduct of evidentiary hearings.**

- (A) The commission shall conduct hearings and other proceedings in such a manner as to render a fair and complete decision on all issues which are presented, and shall take any steps consistent with the impartial discharge of its duties which appear reasonable and necessary to ascertain all relevant facts.
- (B) At an adjudication hearing, the commission shall not be bound by common law, by the rules of evidence or by technical or formal rules of procedure, except as articulated by rules in this chapter or otherwise determined by the commission.
- (C) The division of oil and gas resources management shall bear the burden of establishing the facts which form the basis of the order under appeal. The commission shall assign the order of presentation of evidence at hearing in the manner that will allow for the most orderly and efficient proceeding.
- ~~(C)~~(D) The commission shall admit into the record of the proceedings at an adjudication hearing, all relevant evidence offered on the issue of whether the order under appeal is lawful and reasonable.
- ~~(D)~~(E) A party may object to the admission of any evidence and the commission shall pass upon the admissibility of said evidence. If a party objects to the admission or rejection of any evidence, or to other limitations of the scope of examination, that party shall state briefly the grounds for such objection on the record, and the record may include argument thereon, as allowed by the commission.
- ~~(E)~~(F) If the commission refuses to admit evidence, the party offering same may make a proffer thereof, and such proffer shall be made a part of the record of such proceeding.
- ~~(F)~~(G) All hearings shall be conducted in an orderly manner.
- ~~(G)~~(H) Parties shall have the right of presentation of evidence, examination of witnesses, cross-examination of witnesses, objection, motion and argument. All witnesses shall be sworn or shall affirm the truthfulness of their testimony.
- ~~(H)~~(I) Commission members may examine on record the parties or witnesses to a proceeding.
- (J) The parties to a proceeding must bring to hearing sufficient copies of any proposed exhibits, so that one exhibit will be kept with, and made a part of, the record of the proceeding and so that each commission member present at hearing is provided with a copy of any document or item proposed as an exhibit.

(H)(K) A record of the proceedings before the commission shall be made by an official court reporter or by any other means approved by the commission. The record shall include all of the testimony and other evidence, the rulings regarding the admissibility of evidence, and any arguments allowed by the commission.

(H)(L) Parties desiring copies of the transcript of a hearing shall obtain such copies from the official court reporter upon payment of the costs of said copies to the reporter. If the original or a copy of the official transcript is in the possession of the commission, parties desiring copies of the transcript may approach the commission for copies of said transcript in accordance with rule 1509-1-08 of the Administrative Code.

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**Stipulation of fact.**

The parties may, by stipulation in writing, filed with the commission or presented at a hearing, agree on any or all facts involved in a proceeding before the commission; provided, however, that the commission may thereafter require development of any fact it may deem necessary to a proper determination of a controversy.

1509-1-22

**Substitution of parties, dismissal and withdrawal.**

- (A) In the event of the death of the appellant or other party or for other proper cause, the commission may order the substitution of the proper parties.
- (B) Failure to comply with the provisions of section 1509.36 of the Revised Code governing the filing of appeals with the commission shall be sufficient basis for dismissing an appeal.
- (C) If an appellant fails to appear personally or by counsel or other authorized representative at a hearing scheduled, after being duly notified of the hearing by the certified mailing of a notice of hearing to such party's last known address, and if good cause for such failure to appear is not shown, the commission may dismiss an appeal.
- (D) The effect of a dismissal of an appeal shall be to leave in effect the ~~action~~order of the chief from which the dismissed appeal had been made and shall not constitute an affirmance of the chief's order by the commission.
- (E) Upon application of an appellant, and with the concurrence of the commission, an appeal may be withdrawn.

1509-1-23

**Decisions of the commission.**

- (A) If, upon completion of an evidentiary hearing, the commission finds that the order appealed from was lawful and reasonable, it shall make a written decision affirming the order appealed from. If the commission finds that the order appealed from was unreasonable or unlawful, it shall make a written decision vacating the order appealed from, and making the order that it finds the chief should have made or remanding the matter to the chief for further proceedings.
- (B) All decisions of the commission shall incorporate:
- (1) Findings of fact;
  - (2) Conclusions of law; and
  - (3) An order granting or denying relief.
- (C) When a final order of the commission is issued, the commission shall give notice thereof by certified mail to all parties to the proceeding.
- (D) The decision of the commission is final unless vacated by the courts in an appeal as provided for in section 1509.37 of the Revised Code.

1509-1-24

**Appeals from commission decisions.**

- (A) Any party aggrieved or adversely affected by a final order of the commission may file an appeal in accordance with section 1509.37 of the Revised Code.
- (B) The expense of preparing and transcribing the record of proceedings shall be borne by the party appealing the decision of the commission.
- (C) All matters remanded to the commission shall be disposed of in accordance with the order of the court arising from judicial review.

1509-1-25

**Rules of the commission, notice of public hearing.**

- (A) The commission shall adopt rules governing procedures to be followed in proceedings before the commission.
- (B) Whenever the commission proposes to adopt, amend or rescind any rule which the commission is authorized by law to do, the commission will hold a public hearing. The hearing will be held at least thirty days after the proposed rule changes have been filed pursuant to section 119.03 of the Revised Code and after reasonable public notice has been given pursuant to this rule.
- (C) Public notice shall state the commission's intention to consider adopting, amending, or rescinding a rule, shall include a synopsis of the proposed rule, amendment, or rule to be rescinded, or a general statement of the subject matter to which such rule relates, and the date, time, and place of a hearing on said proposed action. The notice shall also state the place from which copies of the proposed rule, amendment, or rule to be rescinded may be obtained. Public notice shall be published in the register of Ohio, found on the internet at <http://www.registerofohio.state.oh.us>, and shall be announced in the "Hannah Report" published by the Hannah news service.
- (D) The commission shall have available at all times, copies of all rules governing the procedures of the commission and shall furnish a copy of said rules free of charge to any person requesting said rules.

1509-1-26

**Notice of public meetings ("Sunshine Law").**

Notice of all public meetings of the commission shall be given in accordance with the following procedure:

- (A) Any person may determine (be informed of) the time and place of regularly scheduled meetings or the time, place, and purpose of any special meeting by calling on the telephone the office of the executive director of the commission.
- (B) Any person may obtain advance notice of all meetings at which any specific type of public business is to be discussed by identifying the type of public business for which he desires to be notified and by supplying the executive director of the commission with stamped self-addressed envelopes. The executive director will mail to such person a notice of the time, place, and type of business to be discussed at the meeting at least four calendar days before the meeting is scheduled unless the meeting is an emergency meeting.
- (C) The executive director of the commission will maintain a list of representatives of the news media who have requested in writing notice of special or emergency meetings. The executive director shall mail or e-mail such representatives notice at least four days before special meetings or shall provide telephone or e-mail notice at least twenty-four hours before special meetings. In the event of an emergency meeting, the representatives of the news media who have requested notification of emergency meetings shall be notified immediately of the time, place, and purpose of the meeting. News media requesting notice pursuant to this paragraph shall supply the executive director with the name, mailing address, e-mail address, and telephone number of the representative to be contacted.
- (D) Notice of public meetings shall be announced in the "Hannah Report" published by the Hannah ~~new~~news service.
- (E) Notice of commission hearings shall be posted at <http://oilandgas.ohiodnr.gov/commission>.