

TITLE 260 - RULES OF PRACTICE AND PROCEDURE

CHAPTER 1 - RULES OF PRACTICE AND PROCEDURE

001. GENERAL PROVISIONS.

001.01 THE OFFICE OF THE COMMISSION.

001.01(A) LOCATION. The office of the Commission is located within the Department in Lincoln, Nebraska, at 301 Centennial Mall South on the 4th floor of the Nebraska State Office Building.

001.01(B) MAILING ADDRESS. The mailing address of the Commission is:

Nebraska Natural Resources Commission

P.O. Box 94676

Lincoln, Nebraska 68509-4676

001.01(C) OFFICIAL HOURS. The official hours of the Commission are from 8:00 A.M. to 5:00 P.M., Monday through Friday, except legal holidays.

002. FILING REQUIREMENTS.

The following filing requirements apply unless more specific requirements are stated in statute or within the Commission's rules.

002.01 METHOD. Pleadings, documents, and correspondence required to be filed with the Commission will be considered properly filed when they are:

002.01(A). Received by the office of the Commission by the required date by either:

002.01(A)(1) personal delivery;

002.01(A)(2) mail delivery;

002.01(A)(3) telefax, and the original signed document filed in the office of the Commission within five days of receipt of the telefax; or

002.01(A)(4) electronic mail, and the original signed document filed in the office of the Commission within five days of receipt of the electronic mail. Electronic filings must be sent to DNR.legalfile@nebraska.gov.

002.01(B). Accompanied by proper fees, if applicable.

002.02 FORM.

Pleadings filed with the Commission must be in the following form:

002.02(A) SIZE AND PAPER. The pleading must be made on white, letter-sized (8-1/2 x 11 inch) paper;

002.02(B) PRINT. The pleading must be legibly typewritten, photostatically reproduced, printed, or handwritten. If handwritten, the pleading must be written in ink. Only one side of a page may contain any writing;

002.02(C) MARGINS. The first page of the pleading must have a top or bottom margin of not less than 2 inches for the stamp of the Department;

002.02(D) ATTACHMENT. Any documents attached to a pleading must be securely fastened to the pleading and meet the requirements of Subsections 002.02(A) and 002.02(B), or placed in an 9 x 12 inch envelope and clearly marked as an attachment to the pleading; and

002.02(E) COPIES. One copy of all pleadings, documents, and correspondence is required unless otherwise ordered by the Commission or Hearing Officer.

003. PROCEEDINGS.

The following definitions shall apply:

003.01. "Proceeding" means the form and manner of conducting business before the Commission. Types of Proceedings include:

003.01(A) Informal Proceedings. The Commission may accept informal requests for actions by the Commission unless there is a formal proceeding before the Commission on the same matter. The Commission may investigate such requests and depending upon the facts determined, may proceed either in an informal or formal manner, at the discretion of the Commission.

003.01(B). Formal Proceedings shall include, but not be limited to, business conducted under the provisions of:

003.01(B)(1). Subsection 004.01, Petitioning for Rulemaking;

003.01(B)(2). Subsection 004.02, Regulations and Procedures Governing Agency Declaratory Orders;

003.01(B)(3). Subsection 005, Conduct of Public Hearings; and

003.01(B)(4). Any application or petition filed pursuant to the Commission's jurisdiction.

004. ADOPTION OF MODEL RULES.

The Commission hereby adopts by reference the following Model Rules of Agency Procedure promulgated as Title 53 NAC by the Nebraska Attorney General.

004.01. 53 NAC Chapter 2- Petitioning for Rulemaking

004.02. 53 NAC Chapter 3- Regulations and Procedures Governing Agency Declaratory Orders

005. CONDUCT OF PUBLIC HEARINGS.

005.01 CALLING PUBLIC HEARINGS. The Commission may at any time on its own motion order any public hearing that the Commission is authorized, either by law or by inherent authority, to conduct and, after giving notice, conduct such hearing in the manner as hereinafter provided.

005.02 NOTICE. Notice will be given of all public hearings held by the Commission. Except as otherwise specified by law, such notice will be published at least once in a newspaper or newspapers of general circulation in the area or areas affected by the business of the hearing, and the publication will be made at least five days prior to the date of the hearing. The published notice will contain information as to the date, time, place, and purpose of the hearing. When a hearing or series of hearings is for a purpose of statewide interest, notice will be sufficient if published in a newspaper of general circulation.

005.03 PRESIDING OFFICER OR HEARING OFFICER. The Chair of the Commission or his or her delegate will serve as presiding officer over the hearing; however, the presiding officer must, in all cases, be a member of the Commission. The presiding officer may appoint a hearing officer for the purpose of assisting in the conduct of the hearing.

005.04 POWERS OF OFFICER. The presiding officer or hearing officer will, among other things, open the Proceedings; enter into the record the notice given of the hearing; take the appearances; accept and assure that exhibits are properly numbered; answer questions asked or call upon other persons present to answer questions asked; and close the Proceedings. The presiding officer and hearing officer have no power, acting alone, to take any action involving a final determination. The record in any hearing will not be affected by any change of presiding officer or hearing officers during the conduct of that hearing.

005.05 RECEIPT OF INFORMATION. Information at a public hearing will ordinarily be received in the following sequence: (1) Commission member and/or support staff; (2) federal agencies; (3) state agencies; (4) political subdivisions; (5) all other persons in the order as the presiding or hearing officer may in his/her discretion choose. All persons will be given the opportunity to be heard on matters relevant to the business and purpose of the hearing.

005.06 PRESENTATION OF INFORMATION. All persons presenting information at a hearing must first state their full name and address, and declare whether they are appearing on their own behalf or on behalf of another person or organization, in which case such person or organization represented must be named.

005.07 PROPRIETY OF INFORMATION. All information presented at the hearing is to be directed at the business and purpose of such hearing.

005.08 SUPPORT STAFF INFORMATION. In addition to statements and other information presented by any other person, the Commission may, through the support staff or otherwise, secure and present such information as it may consider necessary or desirable. Information will include a copy of notice given for the public hearing and a statement explaining the business and purpose of the hearing.

005.09 RECORD MADE. A record will be made of the Proceedings with the information presented being a part thereof. Such record may consist of written statements and any other documentary information along with recordings of oral statements or such transcripts as deemed necessary by the Commission.

005.10 RECORD HELD OPEN. The record of public hearings may be held open at the discretion of the presiding or hearing officer for submission of any information not available or presented at the time of the hearing.

Enabling Legislation: Neb. Rev. Stat. §§ 2-3210, 2-1501, 49-801 (16), 61-204, 61-206, 84-907, 84-909, 84-909.01, 84-912.01

