

**THE WYOMING OIL AND GAS CONSERVATION COMMISSION'S  
STATEMENT OF PRINCIPAL REASONS  
FOR AMENDMENT OF RULES, CHAPTERS 1 AND 5,  
AND NEW RULE CHAPTER 6**

The Wyoming Oil and Gas Conservation Commission (WOGCC) is proposing to amend Chapters 1 and 5 of the current rules to meet the requirements of W.S. 16-3-103(j)(i), which requires agencies to adopt as much of the Office of Administrative Hearings Uniform Rules for Contested Cases (OAH Rules) as is consistent with the specific and distinct requirements of the agency. In addition, the WOGCC proposes to amending WOGCC rules to update and clarify rules in Chapters 1 and 5.

The WOGCC is also proposing to adopt rules and regulations related to Uniform Procedures, Fees, Costs and Charges for Inspecting, Copying, and Producing Public Records, promulgated by the Department of Administration and Information pursuant to W.S. 16-4-204(e). It is proposed that the rules governing public records requests by the Department of Information and Administration be adopted in whole as new Chapter 6.

**CHAPTER 1**

Section 2, Definitions, Subsection (b), Abandoned Oil Field Equipment is being amended to remove reference to Form 2, Productions Reports. The proposed amendment describes methods to determine whether oil field equipment is abandoned by lack of activity, lack of facilities necessary to produce oil or gas, or failure to file required reporting. Disposal of abandoned oil field equipment is addressed in Chapter 5, Section 17.

Section 2, Definitions, Subsection (ww), Spacing Unit is a new provision that defines spacing unit for purposes of determining well density and well location. At the suggestion of commenting attorneys, the well location rules in Chapter 3, Section 2(a) and Chapter 3, Section 2(a)(iii) were specifically referenced to prevent conflicts.

Section 2, Definitions, Subsection (fff), Temporary Spacing Unit was deleted as unnecessary as a result of previous changes to Chapter 3, Section 3.

**CHAPTER 5 (as modified)**

To emphasize their applicability to all WOGCC hearings (hearings before examiners pursuant to Section 12; hearings before the Commissioners pursuant to Section 11; and, complex contested cases pursuant to Section 27), the WOGCC has proposed to specifically incorporate the following OAH Contested Case Rules: Chapter 2, Section 16 (Continuances), Section 9 (Attorneys), Section 18 (Subpoenas), Section 17 (Discovery), Section 21 (Burden of Proof),

Section 22 (Evidence), Section 23 (Default), Section 24 (Settlements), Section 25, (Ex parte Communications), and Section 12 (Computation of Time).

The key elements of the proposed amendments to the Rules of Practice and Procedure in Chapter 5 are as follows:

Section 1. Adoption of Rules, Reference by Incorporation.

Subsection (b) is amended to remove unnecessary language that referenced rule changes, as these changes are governed by WAPA.

Subsection (b) lists other rules adopted by reference.

Section 2. Commencement of Proceedings and Continuances.

Subsection (a) is amended to remove the requirement to provide seven copies of applications. An applicant is required to file an electronic filing and submit one original copy of application or protest. This subsection also increases filing fee to \$250, reflecting actual costs as required by W.S. 30-5-104(a).

Subsection (b) revises the current process to request continuances. These rules differ from OAH Rule Chapter 2, Section 16, in allowing requests for continuance up to three (3) days before the scheduled hearing consistent with W.S. 30-5-106. This subsection authorizes the Supervisor to approve continuances up to two times. Any further continuances require Commission approval. The fee for continuance is raised to \$125, reflecting actual costs as required by W.S. 30-5-104(a).

Section 3. Docket and Copies.

Rewritten to clarify and simplify assignment of docket number and requires use of the docket number in subsequent filings.

Section 4. Filing and Service of Papers.

Revised subsections (a) and (b) requiring the filing and service of original documents and pleadings with the Commission, which will maintain the official file. Subsection (b) describes the process for service of papers.

Section 5. Notice of Complaints and Applications.

The proposed amendment requires that in addition to notice required by statute or rule, notice shall be given to all owners within one half mile.

Subsection (b) is deleted the provision that provides that any person can request notice of public hearing before the Commission. All list of WOGCC monthly public hearings are available on the WOGCC website.

Section 6. Attorneys.

This Section is rewritten to incorporate language from OAH Rules Chapter 2, Section 9. It provides that a party can appear through an attorney or by a representative, and references the Wyoming Rules of Civil Procedure Rule 24. It also provides a process to allow withdrawal of an attorney.

Section 7. Subpoenas.

This section is amended to adopt OAH Rules Chapter 2, Section 18 related to Subpoenas.

Section 8. Discovery.

This section heading is renamed "Discovery." This section adopts OAH Rules Chapter 2, Section 17 regarding discovery.

Section 9. Petition to Promulgate, Amend or Repeal Rules.

This section is deleted as unnecessary, as governed by Wyoming Administrative Procedures Act, W.S. 16-3-101 through 16-3-106.

Section 10. Appointment of Examiners.

Rewritten to specifically reference statute W.S. 30-5-105.

Section 11. Hearing before the Commission.

This section is rewritten to reference W.S. 30-5-106. Redundant language from statute is removed, and the protest date is changed from 10 days to 3 days, consistent with the applicable statute.

Section 12. Hearing before an Examiner.

This section is rewritten to specifically reference the applicable statute, W.S. 30-5-105. Redundant language is removed, including removal of a hearing from examiner and assignment to the commission, which is now referenced in Section 11.

Section 13. Record of Hearing before an Examiner.

Repealed as unnecessary. Requirements are set out in W.S. 30-5-105.

Section 14. Rehearing before the Commission.

Rewritten to clarify that a rehearing must be requested in writing within 30 days of the hearing.

Section 15. Operations Which May be Approved Administratively.

This section is rewritten to remove redundant language and to clarify that the Supervisor has authority pursuant to W.S. 30-5-109(c)(ii) and Chapter 3, Section 3(a) to administratively approve applications for exception locations, horizontal well applications (Chapter 3, Section 25(a)) and surface commingling applications (Chapter 3, Section 34). This revision is intended to be illustrative, but not comprehensive.

Section 16. Conservation Tax Disputes.

No changes

Section 17. Removal of Abandoned Oil Field Equipment.

This section was amended to clarify the process to declare oil field equipment abandoned and dispose of the equipment as authorized by W.S. 30-5-104(d)(vii). This change is associated with the change in definition of "abandoned oil field equipment" proposed for Chapter 1, Section 2(b). Changes remove the timing requirement for review of Secretary of State and county lien records. This section requires certified mail to owners and operators, and lien holders, at addresses reflected in the Commissions records, Wyoming Secretary of State Corporation records, and lien filings. The change also authorizes a combined notice to remove property and notice of hearing before the Commission.

Section 18. Abandoned Equipment; Notice to Others.

Repealed as unnecessary.

Section 19. Commission Meetings.

Section 20. Commission Office.

These two sections were added to specifically state the Commission's meeting schedule and office location.

Section 21. Burden of Proof.

This section adopts OAH Rules, Chapter 2, Section 21, to specify which party carries the burden of proof in a non complex cases matter before the commission or the examiners.

Section 22. Evidence.

This section adopts OAH Rules, Chapter 2, Section 22, to establish the admissibility of evidence presented to the Commission and examiners in non complex cases.

Section 23. Default.

This section adopts OAH Rules, Chapter 2, Section 24 in non complex cases matter before the commission or the examiners.

Section 24. Settlements.

This section adopts OAH Rules, Chapter 2, Section 25 non complex cases matter before the commission or the examiners.

Section 25. Ex Parte Communications.

This section adopts OAH Rules Chapter 2, Section 10 in non complex cases before the commission or examiners.

Section 26. Computation of Time.

This section incorporates Wyoming Supreme Court Rules of Civil Procedure Rule 6, adopted by the Wyoming Supreme Court and in effect on March 1, 2017, rather than the OAH Rule Chapter 2, Section 12.

Section 27. Referral for Contested Case Hearings.

This section authorizes the Commission, at its discretion and notice to the parties, to assign complex cases to a hearing officer. Cases referred under this section are governed by Office of Administrative Hearing Uniform Rules for Contested Case Practice and Procedure, Chapter 2, to the extent not otherwise addressed in these rules.

The following provisions of OAH Chapter 2 are proposed to be specifically adopted by the Commission as part of Chapter 5, and would have precedence over OAH provisions, Chapter 2, Section 16 (Continuances) and Section 12 (Computation of Time):

“(b) For these rules incorporated by reference:

(i) The Wyoming Oil and Gas Conservation Commission has determined that incorporation of the full text in these rules would be cumbersome and inefficient given the length or nature of the rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (a) of this section; and

(iii) The incorporated rules are maintained at the Wyoming Oil and Gas Conservation Commission's office and are available for public inspection and copying at the same location."

## **CHAPTER 6**

This chapter proposes adoption of new Chapter 6, Procedures, Fees, Costs and Charges for Inspecting, Copying and Producing Public Records.

These Rules relating to Public Records are adopted verbatim from rules adopted by Department of Administration and Information.