

RULES

TITLE 12. NATURAL RESOURCES

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ARTICLE 1. HEARINGS

R12-17-101. Petition to Modify Priorities

If a person is aggrieved by the undetermined navigability status of a watercourse and submits a petition under A.R.S. § 37-1123(F), the Commission shall meet within 30 days following receipt of the petition to consider whether to modify the priorities listed in A.R.S. § 37-1123(E).

R12-17-102. Computation of Time

The Commission shall consider any period of time prescribed or allowed under this Article as calendar days.

R128-17-103. Service of Documents

When a party has appeared by an attorney, service upon the attorney is deemed service upon the party.

1. Method of service.
 - a. Hand delivery with receipt or certificate of delivery,
 - b. Legible facsimile with confirmed receipt,
 - c. Personal service, or
 - d. By regular mail.

2. Service is deemed made at the time of personal service of the document or five days after deposit of the document in the United States mail, postage prepaid, in a sealed envelope, and addressed to the person being served, at the last known address of record.

R12-17-104. Notice of Appearance as a Party

A person may appear as a party at a Commission hearing by:

1. Providing notice to the Commission in writing before or at the hearing,
2. Appearing at the hearing, or
3. Filing a post hearing opening legal memorandum or a response legal memorandum.

R12-17-105. Evidence

A. Submission of evidence.

1. Any person may submit evidence to the Commission in person or by mail to the Arizona Navigable Stream Adjudication Commission, 1700 West Washington, Suite 304, Phoenix, Arizona 85007, on or before the published hearing date.
2. A person may submit evidence at the hearing for which the evidence is intended.
3. A person is not required to resubmit evidence previously submitted to the Commission before August 9, 2002 that relates to the navigability of a particular watercourse.
4. A person submitting evidence shall submit an original and seven copies of the evidence.
 - a. The evidence shall, where practical, be printed on one side of 8-1/2 x 11-inch paper.
 - b. For computer-generated presentations, such as PowerPoint, only paper printouts of the presentation slides are accepted.
5. All evidence submitted, including maps, charts, photographs, transparencies, audiotapes, and videotapes are the property of the Commission.

B. Evidence review. A person may review any evidence submitted for a hearing and may request, at the person's expense, a copy of any item suitable for copying.

C. Objection to an item of evidence.

1. Any person may object to the admission or exclusion of an item of evidence by making the objection on the record at the public hearing at which the item of evidence is offered.
2. The Commission shall admit the evidence, decline the evidence, or take the matter under advisement for later determination.

D. Record keeping. The Commission shall maintain all relevant evidence submitted for each hearing.

R12-17-106. Hearings

A. Evidence.

1. The Commission shall receive, review, and consider only evidence relevant to the matter being heard.

2. The Presiding Officer shall announce the time for which evidence is no longer accepted for consideration.
- B. Any person acting as a party may be represented by legal counsel or may proceed without legal counsel.
- C. A party may respond and present evidence and arguments on all relevant issues.
1. The Presiding Officer may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.
 2. If any Commissioner objects to a ruling by the Presiding Officer regarding the exclusion of evidence, the entire Commission shall vote on the ruling.
- D. The Presiding Officer shall exercise reasonable control over the manner and order of examining witnesses and presenting evidence to ascertain the truth, to avoid needless consumption of time, and to protect witnesses from harassment or undue embarrassment. The Presiding Officer shall determine:
1. The order in which a party will testify,
 2. The time limit for testimony, if any, and
 3. The order and duration a party may question a witness.
- E. If any Commissioner objects to the Presiding Officer's ruling on a procedural motion, the entire Commission shall vote on the motion.
- F. The Commission shall, as a whole, rule on any motion involving a matter of law or fact.
- G. The Presiding Officer may, for good cause, continue or reschedule any hearing before the Commission
- H. Public participation.
1. The Commission shall provide an opportunity for public comment to any item on the meeting agenda.
 2. The Presiding Officer may establish time limits for public comments.
 3. The Presiding Officer may exclude any person if the person disrupts or obstructs a hearing, or willfully refuses to comply with an order of the Presiding Officer.

R12-17-107. Hearing Record

- A. The Presiding Officer shall ensure that a record is created of the proceeding. The Presiding Officer may tape record or secure a court reporter to produce a record of the proceedings. The Commission shall retain the original audiotape recording or the court reporter's transcript of the hearing, whichever method is used.
- B. A person may obtain a duplicate copy of an audiotape recording of a hearing by requesting a copy of the audiotape and by providing the Commission with replacement blank audiotapes. The Commission will not provide a transcript of the hearing.
- C. A person may obtain a copy of a court reporter's transcript by making arrangements directly with the court reporter.

R12-17-108. Legal Memoranda

- A. Opening legal memoranda.

1. A party may file an opening legal memorandum with the Commission within 30 days, or as determined by the Presiding Officer, after conclusion of the hearing.
 2. The party shall serve a copy of its opening legal memorandum upon all other parties to the hearing and shall file proof of service with the Commission.
 3. Unless allowed by the Commission, an opening legal memorandum may not exceed 25 typewritten pages.
- B. Response memoranda.
1. A party may file a response legal memorandum with the Commission within 20 days, or as determined by the Presiding Officer, after service of the opening legal memorandum.
 2. The party shall serve a copy of its response legal memorandum upon all other parties appearing before the Commission at the hearing and shall file proof of service with the Commission.
 3. Unless allowed by the Commission, a response legal memorandum may not exceed 15 typewritten pages.

R12-17-109. Hearing to Identify Public Trust Values

If the Commission determines that a watercourse was navigable as of February 14, 1912, the Commission shall, within 90 days of its final determination, hold a hearing to identify any trust values associated with the watercourse.

R12-17-110. Hearing Log

The Commission shall maintain a log of all Commission hearings and shall assign a number to each hearing regarding a particular watercourse. The hearing log shall include:

1. The hearing number,
2. The name and date of the hearing,
3. The final determination date,
4. The Commission report date; and
5. The county recording or close date.