



Ohio Revised Code

Section 1522.21 Issuance of proposed order indicating intent to issue final order.

Effective: October 17, 2019

Legislation: House Bill 166 - 133rd General Assembly

(A) As used in this section, "person who is or will be aggrieved or adversely affected" means a person with a direct economic or property interest that is or will be adversely affected by an order or rule issued or adopted by the chief of the division of water resources under this chapter.

(B) The chief shall issue a proposed order indicating the chief's intent to issue a final order prior to issuing a final order that does one of the following:

- (1) Denies the issuance of a permit under this chapter;
- (2) Denies a transfer of a permit under section 1522.15 of the Revised Code;
- (3) Denies a petition to the chief under section 1522.16 of the Revised Code;
- (4) Denies a request for confidentiality under section 1522.17 of the Revised Code;
- (5) Suspends or revokes a permit issued under this chapter.

(C)(1) If the chief receives a written objection from a person who is or will be aggrieved or adversely affected by the issuance of the final order, the chief shall conduct an adjudication hearing with respect to the proposed order in accordance with Chapter 119. of the Revised Code. A person who is or will be aggrieved or adversely affected by the issuance of the final order and who submitted a written objection under this division may be a party to the adjudication.

(2) If the chief proposes to suspend or revoke a permit after making a determination under division (A)(2) or (3) of section 1522.20 of the Revised Code, the permittee, at the hearing, may present evidence that the continued withdrawal or consumptive use of water is warranted because the reasons for suspension or revocation specified in division (A)(2) or (3) of that section, as applicable, do not apply.



(D)(1) After the issuance of a final order, a person who is or will be aggrieved or adversely affected by the issuance of the order may appeal the order to the court of common pleas of Franklin county or the court of common pleas of the county in which the facility that is the subject of the order is located. Subject to the exceptions specified in section 2506.03 of the Revised Code, the court is confined to the record as certified to it by the chief if an adjudication hearing was conducted by the chief under division (C) of this section. However, the court also may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the chief. If no adjudication hearing was conducted under division (C) of this section, the court shall conduct a hearing de novo.

(2) The filing of an appeal under division (D)(1) of this section does not automatically suspend the order that is the subject of the appeal. Upon application by the appellant, the court may suspend or stay the order, pending an immediate hearing on the appeal.

(3) If the court finds that the order was lawful and reasonable, it shall issue a written order affirming the order. If the court finds that the order was unreasonable or unlawful, it shall issue a written order vacating or modifying the order. The judgment of the court is final unless reversed, vacated, or modified on appeal.

(4) A court shall not award attorney's fees to any party to an administrative or legal proceeding under this section.

(E) Any person who is issued a proposed order or a final order by the chief shall be a party in any administrative or legal proceeding in which the proposed order or final order is at issue. This division is in addition to any other rights that a person may have as a person aggrieved or adversely affected.