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THE RECLAMATION COMMISSION



The Reclamation Commission

The Ohio Reclamation Commission is established pursuant to Ohio Revised Code §1513.05. The general purpose of the Reclamation Commission is to provide an administrative appeal to any person claiming to be adversely affected, by a decision of the Chief of the Division of Mineral Resources Management. The Commission is a distinct and separate entity from the Division. Commission members are appointed by the Governor, with the advice and consent of the state Senate. Commission members are appointed to five-year terms. The Commission is composed of seven members, with no more than four members belonging to the same political party. One Commission member must be an attorney at law, familiar with mining issues. The members represent various interests and concerns:

- Two members represent farmers
- One member represents the public
- One member represents forestry
- One member represents agronomy
- One member represents the mining industry
- One member represents earth grading or civil engineering

If an appeal involves mine safety, one of the farmer representatives will be replaced by a member with expertise in mine safety.

As a quasi-judicial board, the Reclamation Commission operates in much the same manner as a court of law. If you feel that you have been adversely affected, by a decision of the Division Chief, you may appeal by following the procedures set out in the Ohio Revised Code and the Commission's rules. Appeals may be filed by mine operators, landowners, citizen groups, governmental units, or other interested and aggrieved parties.

The Reclamation Commission conducts hearings to review decisions of the Division Chief. The Commission renders decisions which may be appealed at the local court level.

Filing Your Notice of Appeal

To initiate an appeal to the Reclamation Commission, you must have an interest which is, or may be, adversely affected by a decision of the Division Chief. You may appeal the Chief's decision by filing a notice of appeal with the Commission.

At a minimum, your notice of appeal must comply with Commission Rule §1513-3-04 and must:

- be filed within 30 days of your receipt of the Chief's decision (unless ORC §1509.08 applies);
- include a statement of the grounds upon which your appeal is based;
- have attached to it a copy of the Chief's decision being appealed; and
- if your appeal is from a civil penalty, your appeal must include a check in the amount of the penalty, which will be held in escrow, pending the outcome of the appeal.

Your notice of appeal may include a request that the Commission members view the site in question. Temporary Relief may also be requested; this will allow for an expedited hearing on this request.

Your notice of appeal must be directed to the Reclamation Commission at the following address:

Ohio Reclamation Commission
2045 Morse Road, Building A-2
Columbus, OH 43229

Also, a copy of your notice of appeal, including a copy of the Chief's decision being appealed, must be sent to the Division Chief at:

Chief, Division of
Mineral Resources Management
2045 Morse Road, Building. H-2
Columbus, OH 43229

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**Failure to comply with any of these requirements will result in the dismissal of your appeal without a hearing.**  
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The Merit Hearing

After the Reclamation Commission receives your notice of appeal, you will be sent notice of the date for hearing. Most hearings are conducted in Columbus, Ohio. If requested, a viewing of the site at issue will be arranged.

At the hearing, you may call witnesses, provide statements under oath or present documentary evidence. You may also cross examine witnesses called by any other party.

All witnesses and parties should also be prepared to answer questions from the Commission members. Although the hearings tend to be informal, they are conducted in compliance with the Commission's Rules of Procedure.

Temporary Relief

If Temporary Relief is requested, an abbreviated hearing before the Commission Chairman will be scheduled as quickly as possible. If a mining operation has been ceased, the Chairman will attempt to hear the Temporary Relief request within five business days. The Temporary Relief hearing is normally conducted as an oral argument. Following the Temporary Relief hearing, the Chairman will issue a Temporary Order. If granted, Temporary Relief may act as a "stay" of the Division's enforcement action during the pendency of an appeal. This Temporary Order will not conclude your appeal. A more extensive "merit" hearing will be scheduled some time after the Temporary Relief hearing.

Pre-Hearing Conferences

Prior to your merit hearing, you may receive notice to appear for a pre-hearing conference. Typically, these conferences are conducted by telephone. At the conference you will meet with the Commission's Hearing Officer and the other parties to your appeal. During this meeting, you may discuss the procedures for your appeal and the facts of your case in an informal setting.

Intervention into an Existing Appeal

If you have a particular interest in an appeal already pending before the Reclamation Commission, you may ask to intervene into that action. Based upon the circumstances, the Commission will determine whether, and to what extent, you may participate in the existing appeal. Commission Rule §1513-3-07 provides additional information on intervention into an existing appeal.

Representation before the Reclamation Commission

Because of the legal nature of proceedings before the Reclamation Commission, you are encouraged to obtain legal counsel. Under certain limited circumstances, you may request that your attorney's fees be paid by another party.

The Division Chief will be represented by an Assistant Attorney General in appeals before the Commission.

In the absence of an attorney, an individual or sole proprietorship may represent itself before the Commission. Also, a partnership may be represented by any of its partners. However, corporations, limited liability companies and associations must be represented by counsel before the Commission.

Failure to Appear and Continuances

Failure to appear at a scheduled hearing may result in the dismissal of your appeal.

If you desire a continuance of a hearing date, a request for continuance must be filed at least fourteen days in advance of hearing. If an extraordinary and unanticipated event occurs, a continuance may be granted less than fourteen days before a hearing.

Filing Papers with the Reclamation Commission

Copies of any papers filed with the Reclamation Commission must also be sent to The other parties to your appeal. Therefore, a copy of such papers must be sent either directly to the Division Chief or to the Assistant Attorney General representing the Chief. If there is an Intervenor in your appeal, copies of all papers must be sent to the Intervenor as well.

Decisions by the Reclamation Commission

After the merit hearing has been conducted, a written decision by the Reclamation Commission will be issued.

Four members of the Commission constitutes a quorum, and no action of the Commission is valid without the concurrence of at least four members.

The Commission's decision will address whether the Division Chief's decision or action was arbitrary, capricious or otherwise inconsistent with the law. The Commission may affirm, vacate or modify the Chief's decision under appeal.

Appeals of Reclamation Commission Decisions

Decisions of the Reclamation Commission, which involve coal mining operations, are appealable to the Court of Appeals pursuant to Ohio Revised Code §1513.14.

Decisions involving industrial minerals operations are appealable to the Court of Common Pleas pursuant to Ohio Revised Code §1514.09.

The Applicable Law

Sections of Ohio Revised Code Chapter 1513 (regarding coal mining operations) which relate to the Reclamation Commission are:

O.R.C. §1513.05
O.R.C. §1513.13
O.R.C. §1513.131
O.R.C. §1513.14

The section of the Ohio Revised Code Chapter 1514 (regarding industrial minerals operations) which relates to the Reclamation Commission is:

O.R.C. §1514.09

The Reclamation Commission's Rules of Procedure are found in the Ohio Administrative Code at:

O.A.C. §1513-3-01
through §1513-3-22

Copies of these sections of the law will be provided to you at no cost by contacting the Commission's Hearing Officer at (614) 262-1269 or they may be obtained on-line by going to: Ohio Administrative Code 1513-3.

Additional information regarding the Reclamation Commission may be found on the Department of Natural Resources' website by going to:

ohiodnr.gov

and searching for the Ohio Reclamation Commission.

Contacting the Commission

Questions regarding the procedures applied in appeals before the Reclamation Commission should be directed to:

Reclamation Commission Hearing Officer
2045 Morse Road, Building A-2
Columbus, Ohio 43229
(614) 262-1269 / fax: (614) 262-1306
reclamation.commission@dnr.state.oh.us