
THE OHIO RECLAMATION COMMISSION



The Ohio Department of Natural Resources
Division of Mineral Resources Management

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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 aggrieved or adversely affected by a decision of the chief of the Ohio Department of Natural Resources, Division of Mineral Resources Management. The Commission is a distinct and separate entity from the division and the Ohio Department of Natural Resources.

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; no more than four members may belong to the same political party. 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

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 aggrieved or 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.

THE APPLICABLE LAW

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

- ORC 1513.05
- ORC 1513.13
- ORC 1513.131
- ORC 1513.14

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

- ORC 1514.09

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

- OAC 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 may be obtained on-line at:

<http://codes.ohio.gov/>

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 to the Reclamation Commission must:

- be filed within 30 days of your receipt of the chief's decision;
- 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 the appeal is from a civil penalty, include a check in the amount of the penalty.

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.

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

Ohio Reclamation Commission
2045 Morse Road Building F-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, Bldg. H-3
Columbus, OH 43229

Failure to comply with any of these requirements will result in a dismissal of your appeal without a hearing.

THE MERIT HEARING

After the Reclamation Commission receives your notice of appeal, you will be sent a notice of the date for hearing. Most hearings are conducted at the Commission's office 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.

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 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. Sometimes these conferences are conducted by telephone. At the conference you will meet with the Commission's Hearing Officer. 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 that 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 the absence of an attorney, a party may represent itself before the Reclamation Commission. Also, a partnership may be represented by any of its partners, a corporation or association may be represented by any of its officers, and any governmental unit may be represented by an employee offering proof of authority.

FAILURE TO APPEAR AND CONTINUANCES

Failure to appear at a scheduled hearing will 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 five days in advance of hearing. If an extraordinary and unanticipated event occurs, a continuance may be granted less than five days before a hearing.

FILING PAPERS WITH THE Reclamation Commission

Copies of any papers, which you file with the Reclamation Commission, must be sent to the other parties in 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.

The Commission's decision will address whether the division chief's enforcement action was arbitrary, capricious or otherwise inconsistent with the law. The Commission will affirm, vacate or modify the chief's action 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.

