



## Ohio Administrative Code Rule 1501:13-14-04 Petition for fees.

Effective: April 30, 2009

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(A) Award of costs and expenses.

(1) Any person may file a petition for award of costs and expenses including attorneys' fees reasonably incurred as a result of that person's participation in any administrative proceeding under Chapter 1513. of the Revised Code which results in a final order being issued by the chief.

(2) The petition for an award of costs and expenses including attorneys' fees must be filed with the chief within forty-five days of receipt of such order. Failure to make a timely filing of the petition may constitute a waiver of the right to such an award.

(3) Contents of petition.

(a) A petition filed under paragraph (A)(1) of this rule shall include the name of the person from whom costs and expenses are sought and the following shall be submitted in support of the petition:

(i) An affidavit setting forth in detail all costs and expenses including attorneys' fees reasonably incurred for, or in connection with, the person's participation in the proceeding;

(ii) Receipts or other evidence of such costs and expenses; and

(iii) Where attorneys' fees are claimed, evidence concerning the hours expended on the case, the customary commercial rate of payment for such services in the area, and the experience, reputation and ability of the individual or individuals performing the services.

(4) Any person served with a copy of the petition shall have thirty days from service of the petition within which to file an answer to such petition.

(5) Appropriate costs and expenses including attorneys' fees may be awarded:



(a) To any person from the permittee, if:

(i) The person initiates any administrative proceedings reviewing enforcement actions, upon a finding that a violation of Chapter 1513. of the Revised Code, Chapters 1501:13-1 to 1501:13-14 of the Administrative Code or the permit has occurred, or that an imminent hazard existed, or to any person who participates in an enforcement proceeding where such a finding is made if the chief determines that the person made a substantial contribution to the full and fair determination of the issues; or

(ii) The person initiates an application for review of alleged discriminatory acts, pursuant to section 1513.39 of the Revised Code, upon a finding of discriminatory discharge or other acts of discrimination;

(b) To any person other than a permittee or his or her representative from the state of Ohio, if the person initiates or participates in any proceeding under Chapter 1513. of the Revised Code upon a finding that the person made a substantial contribution to a full and fair determination of the issues;

(c) To a permittee from the state of Ohio when the permittee demonstrates that the chief or his or her authorized representative issued an order of cessation, a notice of violation or an order to show cause why a permit should not be suspended or revoked, in bad faith and for the purpose of harassing or embarrassing the permittee;

(d) To a permittee from any person where the permittee demonstrates that the person initiated a proceeding under Chapter 1513. of the Revised Code or participated in such a proceeding in bad faith for the purpose of harassing or embarrassing the permittee; or

(e) To the division of mineral resources management where it demonstrates that any person applied for review pursuant to Chapter 1513. of the Revised Code or that any party participated in such a proceeding in bad faith and for the purpose of harassing or embarrassing the division of mineral resources management.

(6) An award under this rule may include:



(a) All costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred as a result of initiation and/or participation in a proceeding under Chapter 1513. of the Revised Code; and

(b) All costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award of costs.

(B) Appeal of decision. Any person aggrieved by a decision concerning the award of costs and expenses in an administrative proceeding under Chapter 1513. of the Revised Code may appeal such award to the reclamation commission pursuant to section 1513.13 of the Revised Code.