



## Ohio Administrative Code Rule 1501:13-14-06 Individual civil penalties.

Effective: December 30, 2011

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(A) Definitions. For the purposes of this rule:

(1) "Violation" means a violation of any requirement of Chapter 1513. of the Revised Code, rules adopted thereunder, or of any permit condition.

(2) "Failure or refusal" means a failure or refusal to comply with any notice of violation or order of the chief issued under Chapter 1513. of the Revised Code, except that non-payment of civil penalties assessed against a corporate permittee or non-compliance with any order issued by the chief under section 1513.39 of the Revised Code does not constitute a failure or refusal.

(3) "Willfully" means that an individual acted:

(a) Either intentionally, voluntarily or consciously; and

(b) With intentional disregard or plain indifference to legal requirements in authorizing, ordering or carrying out a corporate permittee's action or omission that constituted a violation, failure or refusal.

(B) Except as provided in paragraph (C) of this rule, the chief may assess an individual civil penalty against any corporate director, officer or agent of a corporate permittee who knowingly and willfully authorized, ordered or carried out a violation, failure or refusal.

(C) The chief shall not assess an individual civil penalty in situations resulting from a permit violation by a corporate permittee until a cessation order has been issued by the chief to the corporate permittee for the violation, and the cessation order has remained unabated for thirty days.

(D) Amount of the individual civil penalty.

(1) In determining the amount of an individual civil penalty assessed under paragraph (B) or (C) of



this rule, the chief shall consider the criteria specified in division (E)(1) of section 1513.02 of the Revised Code, including:

- (a) The individual's history of authorizing, ordering or carrying out previous violations, failures or refusals at the particular coal mining operation;
- (b) The seriousness of the violation, failure or refusal, including any irreparable harm to the environment and any hazard to the health or safety of the public; and
- (c) The demonstrated good faith of the individual charged in attempting to achieve rapid compliance after receipt of the notice of the violation, failure or refusal.

(2) The penalty shall not exceed five thousand dollars for each violation. Each day of a continuing violation may be deemed a separate violation and the chief may assess a separate individual civil penalty for each day the violation continues, from the date of service of the underlying notice of violation, cessation order or other order incorporating a final decision of the chief, until abatement or compliance is achieved.

(E) Procedure for assessment of the individual civil penalty.

(1) For every imminent harm cessation order or failure-to-abate cessation order issued by the chief in accordance with paragraph (A)(1) or paragraph (A)(3) of rule 1501:13-14-02 of the Administrative Code, the chief shall immediately serve on each individual to be assessed an individual civil penalty, a notice of proposed individual civil penalty assessment, including a narrative explanation of the reasons for the penalty, the amount to be assessed, and a copy of any underlying notice of violation and cessation order.

(2) The notice of proposed individual civil penalty assessment shall become a final order of the chief thirty days after service upon the individual unless:

(a) The individual files, within thirty days of service of this notice of proposed individual civil penalty assessment, a notice of appeal to the reclamation commission in accordance with section 1513.13 of the Revised Code; or



(b) The chief and the individual or responsible corporate permittee agree, within thirty days of service of the notice of proposed individual civil penalty assessment, to a schedule or plan for the abatement or correction of the violation, failure or refusal.

(3) For purposes of paragraphs (E)(1) to (E)(2)(b) of this rule, service is sufficient if it would satisfy the requirements of paragraph (D) of rule 1501:13-14-02 of the Administrative Code.

(F) If a notice of proposed individual civil penalty assessment becomes a final order in the absence of a petition for review or abatement agreement, the penalty shall be due upon issuance of the final order.

(G) If an individual named in a notice of proposed individual civil penalty assessment files a notice of appeal in accordance with section 1513.13 of the Revised Code, the penalty shall be due upon issuance of a final administrative order affirming, increasing or decreasing the proposed penalty.

(H) Where the chief and the corporate permittee or individual have agreed in writing on a plan for the abatement of or compliance with the unabated notice of violation or cessation order, an individual named in a notice of proposed individual penalty assessment may postpone payment until receiving either a final order from the chief stating that the penalty is due on the date of such final order, or written notice that abatement or compliance is satisfactory and the penalty has been withdrawn.

(I) Following the expiration of forty-five days after the individual civil penalty is payable, any delinquent penalty shall be certified to the attorney general for collection.