



## Ohio Administrative Code Rule 1513-3-02 Internal regulations.

Effective: November 1, 2018

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(A) This chapter governs the practices and procedures before the reclamation commission.

(B) Quorum.

(1) Four members constitute a quorum, and no action of the commission shall be valid unless it has the concurrence of at least four members.

(2) An inability to reach a concurrence of four members shall be deemed to have occurred when a majority of the participating members conclude that a concurrence of four members cannot be reached.

(3) In rendering a decision, if the members of the commission who attended a hearing fail to reach a concurrence of at least four commission members, the existing record of proceedings shall be submitted to all members who did not attend any portion of the hearing, which members shall inform the commission of their decision to participate in the appeal. If any such member decides to participate, that member shall review the record of the proceedings before the commission, and then shall participate in the rendering of a decision in the matter under consideration.

(4) In the event that a concurrence of four members cannot be reached, a decision shall be issued reflecting that four members of the commission could not reach agreement regarding whether the chief's action under appeal was, or was not, arbitrary, capricious or otherwise inconsistent with law. In such case, the commission's decision shall include the necessary order, affirming the chief's action under appeal pursuant to division (B) of section 1513.13 of the Revised Code.

(C) If a commission member has attended a hearing, but was absent from a portion of that hearing, the absent commission member shall review that portion of the record from which he was absent before participating in the rendering of a decision in the matter under consideration.



(D) Pursuant to section 1513.05 of the Revised Code, the reclamation commission shall elect a secretary, who shall perform such duties as the commission prescribes, including:

(1) Promptly recording minutes of all meetings of the commission which shall be open to public inspection during regular business hours at the office of the commission.

(2) Serving as custodian of the records and papers of the commission and preserving copies of briefs and other filings.

(3) Assembling, transmitting and certifying the complete record of proceedings before the commission out of which appeals made pursuant to section 1513.14 or section 1514.09 of the Revised Code arise.

(4) Providing notice of all public meetings of the commission in accordance with the following:

(a) Any person may ascertain the time and place of regularly-scheduled public meetings by contacting the office of commission during regular business hours;

(b) Upon request, any person may obtain advance notice of all regularly-scheduled public meetings by supplying the office of the commission with stamped, self-addressed envelopes. The office will mail to such person a notice of the time and place of meetings at least four calendar days before the scheduled meeting;

(c) The time and location for commission meetings shall be announced in the "Hannah Report" published by Rotunda, Inc.

(5) Establishing and maintaining records for the funds held in a penalty fund mandated by division (E)(3) of section 1513.02 of the Revised Code.

(6) Remitting, in appropriate amounts, funds from a penalty fund as mandated in division (E)(3) of section 1513.02 of the Revised Code.

(7) The secretary of the commission shall have the authority to delegate to any staff member of the



commission, those duties assigned to the secretary pursuant to this rule.

(E) Documents and files of the commission, or parts thereof, shall not be removed from the custody of the commission without the consent of the commission.

(F) The documents and files of the commission shall be available for inspection and examination at the office of the commission during regular business hours, as defined by paragraph (T) of rule 1513-3-01 of the Administrative Code.

(G) All hearings before the commission shall be recorded by audio-electronic devices, which recording shall constitute the official record of the hearing. However, the commission may allow other means for the creation of the official record of the hearing at the commission's discretion or upon motion of a party, or joint motion of parties, and if such motion is granted, the requesting party or parties shall bear the expense of the creation of such record, which record shall then be filed with the commission.

(H) Any transcript of a proceeding before the commission, if filed with the commission shall be made available for reproduction upon application to the commission and payment of reproduction costs.

(I) Issuance of subpoenas.

(1) Upon request of a party, or at the initiative of the commission, the commission shall issue subpoenas ad testificandum or duces tecum.

(2) The party requesting a subpoena shall comply with all requirements of rule 45 of the Ohio Rules of Civil Procedure.

(3) Except for good cause shown, a request for issuance of a subpoena shall be made at least ten days before a scheduled hearing.

(4) Subpoenas shall be served in compliance with rule 45 of the Ohio Rules of Civil Procedure.



(5) A subpoena ordering the appearance of an employee of the Columbus office of the division of mineral resources management may be personally served by the commission.

(6) The commission may issue a subpoena signed by the commission, but otherwise in blank, to a party or counsel requesting a subpoena, which party or counsel shall complete the subpoena form before service in compliance with rule 45 of the Ohio Rules of Civil Procedure.

(7) If the witness being subpoenaed resides outside the county in which a hearing will be held, the fees for one day's attendance and mileage shall be tendered to the witness without demand. The attendance fee and mileage reimbursement shall be as set forth in section 119.094 of the Revised Code. The responsibility to tender such fees to the witness being subpoenaed shall be borne by the party requesting the issuance of the subpoena.

(8) The cost of serving a subpoena shall be borne by the party requesting the issuance of the subpoena.

(J) Notice of public hearing to adopt, amend, or rescind rules.

(1) Public notice of hearings on the adoption, amendment, or rescission of rules, to be conducted by the commission, shall be advertised one time in five newspapers published in different counties and of general circulation in the state.

(2) The public notice shall be given at least thirty days, but not more than fifty days, prior to the hearing.

(3) The notice shall:

(a) State the commission's intention to consider adopting, amending, or rescinding rules;

(b) Include a synopsis or full text of the proposed rules, amendments, or rules to be rescinded, or a general statement of the subject matter to which such proposed rules relate;

(c) State the reason or purpose for adopting, amending, or rescinding the rules;



(d) Enumerate the date, time and place of the hearing on the proposed actions, which shall not be earlier than thirty days after the proposed rules, amendments, or rescissions are filed; and

(e) State the place from which copies of the proposed rules, amendments, or rules to be rescinded may be obtained.

(4) The office of the commission shall provide the public notice to anyone who requests it and pays a reasonable fee, not to exceed the cost of copying and mailing.

(K) In the event that the rules of the commission are amended, all proceedings in actions brought after the amendment and also all further proceedings in actions then pending shall be governed by the amended rules.

(L) The commission may appoint hearing officers to conduct hearings on issues of fact and law arising in an appeal or to perform any other duties as directed by the commission or its secretary. The hearing officer shall have the same powers and authority in conducting hearings as granted to the reclamation commission.