



## Ohio Revised Code

### Section 1514.071 Civil penalty in addition to other penalties.

Effective: March 15, 2002

Legislation: Senate Bill 83 - 124th General Assembly

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(A) In addition to any other penalties established under this chapter, the chief of the division of mineral resources management may assess a civil penalty against any person who fails to comply with an order issued by the chief under section 1514.07 of the Revised Code by the date specified in the order or as subsequently extended by the chief.

(B) Civil penalties assessed under this section shall not exceed one thousand dollars for each occurrence of noncompliance with an order. Each day of continuing noncompliance, up to a maximum of thirty days, may be deemed a separate occurrence for purposes of penalty assessments. In determining the amount of the assessment, the chief shall consider the seriousness of the noncompliance, the effect of the noncompliance, and the operator's history of noncompliance.

(C) Upon issuance of a notice of noncompliance with an order, the chief shall inform the person to whom the notice of noncompliance is issued of the amount of any civil penalty to be assessed and provide an opportunity for an adjudicatory hearing with the reclamation commission pursuant to section 1514.09 of the Revised Code. The person charged with the penalty shall have thirty days from receipt of the assessment to pay the penalty in full or, if the person wishes to contest the amount of the penalty, file a petition for review of the assessment with the commission pursuant to section 1514.09 of the Revised Code and forward the amount of the penalty to the secretary of the commission as required by this division. Failure to forward the money to the secretary within thirty days after the chief informs the person of the amount of the penalty shall result in a waiver of all legal rights to contest the amount of the penalty.

If, after a hearing, the commission affirms or modifies the amount of the penalty, the person charged with the penalty shall have thirty days after receipt of the written decision to file an appeal from the commission's order in accordance with section 1514.09 of the Revised Code.

At the time that the petition for review of the assessment is filed with the secretary, the person shall forward the amount of the penalty to the secretary for placement in the reclamation penalty fund



created in division (F)(3) of section 1513.02 of the Revised Code. Pursuant to administrative or judicial review of the penalty, the secretary shall do either of the following:

- (1) If it is determined that the amount of the penalty should be reduced, within thirty days, remit the appropriate amount of the penalty to the person, with interest, and forward any balance of the penalty, with interest, to the chief for deposit in the surface mining fund created in section 1514.06 of the Revised Code for reclamation of abandoned surface or in-stream mining operations in the state;
  - (2) If the penalty was not reduced, forward the entire penalty, with interest, to the chief for deposit in the surface mining fund for reclamation of abandoned surface or in-stream mining operations in the state.
- (D) Civil penalties owed under this section may be recovered in a civil action brought by the attorney general upon the request of the chief.