



Ohio Administrative Code

Rule 1501:13-1-03 Restrictions on financial interest of employees.

Effective: October 28, 2010

(A) The chief of the division of mineral resources management shall:

(1) Provide advice, assistance, and guidance to all employees of the division of mineral resources management required to file statements pursuant to paragraph (F) of this rule;

(2) Promptly review the statement of employment and financial interests and supplements, if any, filed by each employee, to determine if the employee has correctly identified those listed employment and financial interests which constitute a direct or indirect financial interest in a coal mining operation;

(3) Resolve prohibited financial interest situations by ordering or initiating remedial action or by reporting the violations to the director of the office of surface mining reclamation and enforcement;

(4) Certify on each statement that review has been made, that prohibited financial interests, if any, have been resolved, and that no other prohibited interests have been identified from the statement;

(5) Submit to the director of the office of surface mining reclamation and enforcement such statistics and information as he or she may request;

(6) Submit to the director of the office of surface mining reclamation and enforcement the initial listing and the subsequent annual listings of positions as required by paragraphs (F)(1) to (F)(3) of this rule;

(7) Furnish a blank statement forty-five days in advance of the filing date established by paragraph (G)(1) of this rule to each employee required to file a statement; and

(8) Annually inform each employee required to file a statement with the chief of the name, address, and telephone number of the person whom the employee may contact for advice and counseling.



(B) Employees performing any duties or functions under Chapter 1513. of the Revised Code shall:

(1) Have no direct or indirect financial interest in coal mining operations;

(2) File a fully completed statement of employment and financial interest upon entrance to duty, and annually thereafter on the specified filing date; and

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial action.

(C) Members of the reclamation commission shall recuse themselves from proceedings which may affect their direct or indirect financial interests.

(D) Definitions. For purposes of this rule:

(1) "Coal mining operation" means the business of developing, producing, preparing or loading coal, or of reclaiming the areas upon which such activities occur.

(2) "Employee" as used in this rule means any person employed by the state who performs any function or duty under Chapter 1513. of the Revised Code. However, members of the reclamation commission and members of the reclamation forfeiture fund advisory board are not included within the meaning of this definition.

(3) "Performing any function or duty under Chapter 1513. of the Revised Code" means those decisions or actions which, if performed or not performed by an employee, affect the regulatory program administered under Chapter 1513. of the Revised Code.

(4) "Direct financial interest" means ownership or part ownership of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property and other financial relationships.



(5) "Indirect financial interest" means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, minor children or other resident relatives hold a financial interest.

(6) "Prohibited financial interest," means any direct or indirect financial interest in any coal mining operation.

(E) An employee who fails to file the required statement will be considered in violation of the intended employment provisions of section 1513.04 of the Revised Code and will be subject to removal from his or her position.

(F) Who shall file.

(1) Any employee who performs any function or duty under Chapter 1513. of the Revised Code is required to file a statement of employment and financial interest. Members of the reclamation commission and members of the reclamation forfeiture fund advisory board are required to file a statement of employment and financial interests. An employee who occupies a position which has been determined by the chief not to involve performance of any function or duty under Chapter 1513. of the Revised Code or who is no longer employed by the chief at the time a filing is due, is not required to file a statement.

(2) The chief of the division of mineral resources management shall:

(a) Prepare a list of those positions within the division of mineral resources management that do not involve performance of any functions or duties under Chapter 1513. of the Revised Code;

(b) Prepare and submit to the director of the office of surface mining reclamation and enforcement an initial listing of positions that do not involve performance of any functions or duties under Chapter 1513. of the Revised Code.



(3) The chief of the division of mineral resources management shall annually review and update this listing. The listing must be submitted to the director of the office of surface mining reclamation and enforcement and must contain a written justification for inclusion of the positions listed. Proposed revisions or a certification that revision is not required shall be submitted to the director by no later than September thirtieth of each year. The chief of the division of mineral resources management may revise the listing by the addition or deletion of positions at any time he or she determines such revisions are required to carry out the purpose of section 1513.04. of the Revised Code or this rule. Additions to and deletions from the listing of positions are effective upon notification to the incumbents of the positions added or deleted.

(G) When to file.

(1) Employees performing functions or duties under Chapter 1513. of the Revised Code, and members of the reclamation commission and members of the reclamation forfeiture fund advisory board, shall file annually on February first of each year or at such other date as may be agreed to by the director of the office of surface mining reclamation and enforcement.

(2) Employees hired, appointed, or transferred to perform functions or duties under Chapter 1513. of the Revised Code, and members of the reclamation commission and members of the reclamation forfeiture fund advisory board, shall be required to file at the time of entrance to duty.

(3) A new employee, and a new member of the reclamation commission or the reclamation forfeiture fund advisory board, is not required to file an annual statement on the subsequent annual filing date if this date occurs within two months after his or her initial statement was filed.

(H) Where to file.

The chief of the division of mineral resources management shall file his or her statement with the director of the office of surface mining reclamation and enforcement. All other employees, as provided in paragraph (F)(1) of this rule, and members of the reclamation commission and members of the reclamation forfeiture fund advisory board, shall file their statements with the chief of the division of mineral resources management.



(I) What to file.

(1) Each employee and member of the reclamation commission and member of the reclamation forfeiture fund advisory board shall report all information required on the statement of employment and financial interests of the employee or member, his or her spouse, minor children, or other relatives who are full-time residents of the employee's or member's home. The report shall be on "OSM Form 23" as provided by the office of surface mining reclamation and enforcement. The statement shall consist of three major parts:

(a) A listing of all financial interests, including employment, security, real property, creditor, and other financial interests held during the course of the preceding year;

(b) A certification that none of the listed financial interests represent a direct or indirect financial interest in a coal mining operation except as specifically identified and described by the employee or member of the reclamation commission or the reclamation forfeiture fund advisory board as part of the certificate; and

(c) A certification by the reviewer that the form was reviewed, that prohibited interests have been resolved, and that no other prohibited interests have been identified from the statement.

(2) Listing of all financial interests. The statement shall set forth the following information regarding any financial interest:

(a) Employment. Any continuing financial interests in business entities and nonprofit organizations through a pension or retirement plan, shared income, salary or other income arrangement as a result of prior or current employment. The employee or member of the reclamation commission or the reclamation forfeiture fund advisory board, his or her spouse, or other resident relative is not required to report a retirement plan from which he or she will receive a guaranteed income, that is, income which is unlikely to be changed as a result of actions taken by the division of mineral resources management.

(b) Securities. Any financial interest in business entities and nonprofit organizations through



ownership of stock, stock options, bonds, securities, or other arrangements including trusts. An employee or a member of the reclamation commission or the reclamation forfeiture fund advisory board is not required to report holdings in widely diversified mutual funds, investment clubs, or regulated investment companies not specializing in coal mining operations.

(c) Real property. Ownership, lease, royalty, or other interests or rights in lands or minerals. Employees or members of the reclamation commission or the reclamation forfeiture fund advisory board are not required to report lands developed and occupied for a personal residence.

(d) Creditors. Debts owed to business entities and nonprofit organizations. Employees or members of the reclamation commission or the reclamation forfeiture fund advisory board are not required to report debts owed to financial institutions (banks, savings and loan associations, credit unions, and the like) which are chartered to provide commercial or personal credit. Also excluded are charge accounts and similar short term debts for current and ordinary household and living expenses.

(3) Employee certification, and, if applicable, a listing of exceptions.

(a) The statement shall provide for a signed certification by the employee or the member of the reclamation commission or the reclamation forfeiture fund advisory board that to the best of his or her knowledge:

(i) None of the listed financial interests represent an interest in a coal mining operation except as specifically identified and described as exceptions by the employee or the member of the reclamation commission or the reclamation forfeiture fund advisory board as part of the certificate; and

(ii) The information shown on the statement is true, accurate, and complete.

(b) An employee or a member of the reclamation commission or the reclamation forfeiture fund advisory board is expected to:

(i) Have complete knowledge of his or her personal involvement in business enterprises such as sole proprietorship and partnership, his or her outside employment, and the outside employment of the spouse and other covered relatives; and



(ii) Be aware of the information contained in the annual financial statement or other corporate or business reports routinely circulated to investors or routinely made available to the public.

(c) The exceptions shown in the employee certification of the form must provide enough information for the chief of the division of mineral resources management to determine the existence of a direct or indirect financial interest and shall include:

(i) A list of financial interests;

(ii) The number of shares, estimated value, or annual income of the financial interests; and

(iii) Any other information that an employee believes should be considered in determining whether the interest represents a prohibited interest or that a member of the reclamation commission believes would support recusal of him or herself from participation in a particular proceeding before the reclamation commission.

(4) Employees are cautioned to give serious consideration to their direct and indirect financial interests before signing the statement of certification pursuant to paragraph (I)(3) of this rule. Signing the certification without listing known prohibited financial interests may be cause for imposing on an employee the penalty prescribed in paragraph (E) of this rule.

(J) Gifts and gratuities.

(1) Except as provided in paragraph (J)(2) of this rule, employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a coal company which:

(a) Conducts or is seeking to conduct, operations, or activities that are regulated by the division of mineral resources management; or

(b) Has interest that may be substantially affected by the performance or nonperformance of the employee's official duty.



(2) The prohibitions in paragraph (J)(1) of this rule do not apply in the context of obvious family or personal relationships, such as those between the parents, children or spouse of the employee and the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors. Any employee may accept:

(a) Food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon, dinner, or other meeting where an employee may properly be in attendance, provided the nominal value of food, refreshment, unsolicited advertising or promotional materials accepted from a single coal company does not exceed twenty dollars in one year; and

(b) Unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars and other items of nominal value.

(K) The chief shall take the following actions to resolve prohibited interests:

(1) If an employee has a prohibited financial interest, the chief of the division of mineral resources management shall promptly advise the employee, in the form of an order, that remedial action which will resolve the prohibited interest is required within ninety days. Remedial action may include:

(a) Reassignment of the employee to a position which performs no function or duty under Chapter 1513. of the Revised Code; or

(b) Divestiture of the prohibited financial interest; or

(c) Other appropriate action which either eliminates the prohibited interest or eliminates the situation which creates the conflict;

(2) If, ninety days after an employee is notified pursuant to paragraph (K)(1) of this rule to take remedial action, that employee is not in compliance with the requirements of Chapter 1513. of the Revised Code and this rule, the chief of the division of mineral resources management shall report the facts to the director of the office of surface mining reclamation and enforcement. The report to the director shall include the original or a certified true copy of the employee's statement and any



other information pertinent to the director's determination, including a statement of actions being taken at the time the report is made.

(L) Appeals procedures. Employees have the right to appeal an order for remedial action under paragraph (K) of this rule and shall have thirty days to exercise this right before disciplinary action is initiated.

(1) An employee, other than the chief of the division of mineral resources management or a hearing officer of the reclamation commission, may file an appeal in writing with the chief, who will conduct an informal hearing on the merits.

(2) The chief of the division of mineral resources management or a hearing officer of the reclamation commission may file an appeal in writing with the director of the office of surface mining reclamation and enforcement, who will refer it to the conflict of interest appeals board within the United States department of the interior.