



## Ohio Administrative Code Rule 1513-3-21 Award of costs and expenses.

Effective: [October 11, 2013](#)

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(A) Pursuant to division (E)(1)(c) of section 1513.13 of the Revised Code, the division of mineral resources management may file a petition for an award of costs and expenses including attorneys' fees reasonably incurred in connection with any appeal before the reclamation commission which results in a final order being issued by the commission and where the division demonstrates that a party initiated or participated in the appeal in bad faith and for the purpose of harassing or embarrassing the division.

(1) A petition for an award of costs and expenses including attorneys' fees requested under division (E)(1)(c) of section 1513.13 of the Revised Code must be filed with the commission within sixty days of the petitioner's receipt of the final decision of the commission in the action in which the fees were incurred. Failure to make a timely filing of the petition shall constitute a waiver of the right to such an award.

(2) Contents of petition. A petition filed with the commission pursuant to division (E)(1)(c) of section 1513.13 of the Revised Code 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:

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

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

(c) Where attorneys' fees are requested, evidence that the hours expended and the fees requested, are reasonable for the appeal and for the locality.

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



(4) 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 the division's participation in a proceeding before the commission; and

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

(B) A decision by the chief of the division of mineral resources management granting or denying, in whole or in part, a request for an award of costs and expenses including attorneys' fees made under division (E)(1)(a) or (E)(1)(b) of section 1513.13 of the Revised Code shall be appealable to the commission under division (A) of section 1513.13 of the Revised Code. Such appeal shall be filed in compliance with division (A) of section 1513.13 of the Revised Code and in compliance with rule 1513-3-04 of the Administrative Code.

(C) Any person aggrieved by a decision concerning the award of costs and expenses in an administrative appeal before the reclamation commission may appeal such order of the commission in the manner prescribed in section 1513.14 of the Revised Code.

(D) A party's participation in an appeal brought under Chapter 1514. of the Revised Code does not qualify for an award of costs and expenses including attorneys' fees.