



Ohio Revised Code

Section 3745.06 Appeals to courts of appeals.

Effective: December 22, 2005

Legislation: House Bill 397 - 126th General Assembly

Any party adversely affected by an order of the environmental review appeals commission may appeal to the court of appeals of Franklin county, or, if the appeal arises from an alleged violation of a law or regulation, to the court of appeals of the district in which the violation was alleged to have occurred. Any party desiring to so appeal shall file with the commission a notice of appeal designating the order appealed. A copy of the notice also shall be filed by the appellant with the court, and a copy shall be sent by certified mail to the director of environmental protection unless the director is the party appealing the order. Such notices shall be filed and mailed within thirty days after the date upon which the appellant received notice from the commission by certified mail of the making of the order appealed. No appeal bond shall be required to make an appeal effective.

The filing of a notice of appeal shall not automatically operate as a suspension of the order of the commission. If it appears to the court that an unjust hardship to the appellant will result from the execution of the commission's order pending determination of the appeal, the court may grant a suspension of the order and fix its terms.

Within twenty days after receipt of the notice of appeal, the commission shall prepare and file in the court the complete record of proceedings out of which the appeal arises, including any transcript of the testimony and any other evidence that has been submitted before the commission. The expense of preparing and transcribing the record shall be taxed as a part of the costs of the appeal. The appellant, other than the state or a political subdivision, or an agency of either, or any officer of them acting in a representative capacity, shall provide security for costs satisfactory to the court. Upon demand by a party, the commission shall furnish at the cost of the party requesting the record a copy of the record. If the complete record is not filed within the time provided for in this section, any party may apply to the court to have the case docketed, and the court shall order the record filed.

In hearing the appeal, the court is confined to the record as certified to it by the commission. The court may grant a request for the admission of additional evidence when satisfied that such additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to



the hearing before the commission.

The court shall conduct a hearing on the appeal and shall give preference to all proceedings under this section over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. The hearing in the court of appeals shall proceed as in the case of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to such action. At the hearing, counsel may be heard on oral argument, briefs may be submitted, and evidence introduced if the court has granted a request for the presentation of additional evidence.

The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. When the court finds an ambient air quality standard, an emission standard, or a water quality or discharge standard to be deficient, it shall order the director of environmental protection to modify the standard to comply with the laws governing air or water pollution. The court shall retain jurisdiction until it approves the modified standard. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken by any party to the appeal pursuant to the Rules of Practice of the Supreme Court and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.