

# AN ACT

To amend sections 1514.01, 1514.02, 1514.021, 1514.03 to 1514.11, 1514.99, and 1561.12 and to enact sections 1514.022, 1514.023, 1514.024, 1514.071, 1514.072, 1514.12, and 1514.13 of the Revised Code to revise the statutes governing the surface and in-stream mining of minerals other than coal.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 1514.01, 1514.02, 1514.021, 1514.03, 1514.04, 1514.05, 1514.06, 1514.07, 1514.08, 1514.09, 1514.10, 1514.11, 1514.99, and 1561.12 be amended and sections 1514.022, 1514.023, 1514.024, 1514.071, 1514.072, 1514.12, and 1514.13 of the Revised Code be enacted to read as follows:

Sec. 1514.01. ~~(A)~~ As used in this chapter:

(A) "Surface mining" means all or any part of a process followed in the production of minerals from the earth or from the surface of the land by surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits, and the incidental removal of coal at a rate less than one-sixth the total weight of minerals and coal removed during the year, but does not include: test or exploration boring; mining operations carried out beneath the surface by means of shafts, tunnels, or similar mine openings; the extraction of minerals, other than coal, by a landowner for ~~his~~ the landowner's own noncommercial use where such material is extracted and used in an unprocessed form on the same tract of land; the extraction of minerals, other than coal, from borrow pits for highway construction purposes, provided that the extraction is performed under a bond, a contract, and specifications that substantially provide for and require reclamation practices consistent with the requirements of this chapter; the removal of minerals incidental to construction work, provided that the owner or person having control of the land upon which the construction occurs, the contractor, or the construction firm possesses a valid building permit; ~~or~~ the removal of minerals to a depth

of not more than five feet, measured from the highest original surface elevation of the area to be excavated, where not more than one acre of land is excavated during twelve successive calendar months; routine dredging of a watercourse for purely navigational or flood control purposes during which materials are removed for noncommercial purposes; or the extraction or movement of soil or minerals within a solid waste facility, as defined in section 3734.01 of the Revised Code, that is a sanitary landfill when the soil or minerals are used exclusively for the construction, operation, closure, and post-closure care of the facility or for maintenance activities at the facility.

(B) "Minerals" means sand, gravel, clay, shale, gypsum, halite, limestone, dolomite, sandstone, other stone, metalliferous or nonmetalliferous ore, or other material or substance of commercial value excavated in a solid state from natural deposits on or in the earth, but does not include coal or peat.

(C) "Overburden" means all of the earth and other materials that cover a natural deposit of minerals and also means such earth and other materials after removal from their natural state in the process of surface mining.

(D) "Spoil bank" means a pile of removed overburden.

(E) "Area of land affected" means the area of land that has been excavated, or upon which a spoil bank exists, or both.

(F)(1) "Operation" or "surface mining operation" means all of the premises, facilities, and equipment used in the process of removing minerals, or minerals and incidental coal, by surface mining from a mining area in the creation of which mining area overburden or minerals, or minerals and incidental coal, are disturbed or removed, such surface mining area being located upon a single tract of land or upon two or more contiguous tracts of land. Separation by a stream or roadway shall not preclude the tracts from being considered contiguous.

(2) When the context indicates, "operation" or "in-stream mining operation" means all of the premises, facilities, and equipment used in the process of removing minerals by in-stream mining from a mining area.

(G) "Operator" means any person engaged in surface mining who removes minerals, or minerals and incidental coal, from the earth by surface mining or who removes overburden for the purpose of determining the location, quality, or quantity of a mineral deposit. "Operator" also means any person engaged in in-stream mining who removes minerals from the bottom of the channel of a watercourse by in-stream mining.

(H) "Performance bond" means the surety bond required to be filed under section 1514.04 of the Revised Code and includes cash, an irrevocable letter of credit, and negotiable certificates of deposit authorized to be

ed in lieu of the surety bond under that section.

(I) "Dewatering" means the withdrawal of ground water from an aquifer or saturated zone that may result in the lowering of the water level within the aquifer or saturated zone or a decline of the potentiometric surface within that aquifer or saturated zone.

(J) "Ground water" means all water occurring in an aquifer.

(K) "Cone of depression" means a depression or low point in the water table or potentiometric surface of a body of ground water that develops around a location from which ground water is being withdrawn.

(L) "High water mark" means the line on the shore that is established by the fluctuations of water and indicated by physical characteristics such as a natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding area.

(M) "In-stream mining" means all or any part of a process followed in the production of minerals from the bottom of the channel of a watercourse that drains a surface area of more than one hundred square miles. "In-stream mining" may be accomplished by using any technique or by using surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits. "In-stream mining" does not include either of the following:

(1) Routine dredging for purely navigational or flood control purposes during which materials are removed for noncommercial purposes;

(2) The extraction of minerals, other than coal, by a landowner for the landowner's own noncommercial use when the material is extracted and used in an unprocessed form on the same tract of land.

For purposes of division (M) of this section, the number of square miles of surface area that a watercourse drains shall be determined by consulting the "gazetteer of Ohio streams," which is a portion of the Ohio water plan inventory published in 1960 by the division of water in the department of natural resources, or its successor, if any.

(N) In provisions concerning in-stream mining, when the context is appropriate, "land" is deemed to include an area of a watercourse.

(O) "Watercourse" means any naturally occurring perennial or intermittent stream, river, or creek flowing within a defined stream bed and banks.

Sec. 1514.02. (A) After the dates the chief of the division of mineral resources management prescribes by rule pursuant to section 1514.08 of the

Revised Code, but not later than July 1, 1977, nor earlier than July 1, 1975, no operator shall engage in surface mining or conduct a surface mining operation without a surface mining permit issued by the chief.

No person shall engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief. However, a person who, on the effective date of this amendment, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this section until the existing permit expires.

An application for a surface or in-stream mining permit shall be upon the form that the chief prescribes and provides and shall contain all of the following:

(1) The name and address of the applicant, of all partners if the applicant is a partnership, or of all officers and directors if the applicant is a corporation, and any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant;

(2) A list of the minerals and coal, if any coal, sought to be extracted, an estimate of the annual production rates for each mineral and coal, and a description of the land upon which the applicant proposes to engage in a surface or in-stream mining operation, which description shall set forth the ~~name~~ names of the counties, townships, and municipal corporations, if any, in which the land is located; the location of its boundaries; and a description of the land of sufficient certainty that it may be located and distinguished from other lands;

(3) The name of each county, township, or municipal corporation, if any, that has in effect a zoning resolution or ordinance that would affect the proposed surface or in-stream mining operation or, if no such zoning resolution or ordinance is in effect, a statement attesting to that fact. The application also shall contain an explanation of how the applicant intends to comply with any applicable provisions of a zoning resolution or ordinance.

(4) An estimate of the number of acres of land that will comprise the total area of land to be affected and an estimate of the number of acres of land to be affected during the first year of operation under the permit;

~~(4)~~(5) The name and address of the owner of surface rights in the land upon which the applicant proposes to engage in surface or in-stream mining;

~~(5)~~(6) A copy of the deed, lease, or other instrument that authorizes entry upon the land by the applicant or the applicant's agents if surface rights in the land are not owned by the applicant;

~~(6)~~(7) A statement of whether any surface or in-stream mining permits or coal mining and reclamation permits are now held by the applicant in this state and, if so, the numbers of the permits;

~~(7)~~(8) A statement of whether the applicant, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has ever had a surface or in-stream mining permit or coal mining and reclamation permit issued by this or any other state suspended or revoked or has ever forfeited a surface or in-stream mining or coal mining and reclamation bond or cash, an irrevocable letter of credit, or a security deposited in lieu of a bond;

~~(8)~~(9) A report of the results of test borings that the operator has conducted on the area or otherwise has readily available, including, to the extent that the information is readily available to the operator, the nature and depth of overburden and material underlying each mineral or coal deposit, and the thickness and extent of each mineral or coal deposit. In the case of an application for an in-stream mining permit, the report additionally shall include sufficient information to show the approximate depth to bedrock. All information relating to test boring results submitted to the chief pursuant to this section shall be kept confidential and not made a matter of public record, except that the information may be disclosed by the chief in any legal action in which the truthfulness of the information is material.

~~(9)~~(10) A complete plan for surface or in-stream mining and reclamation of the area to be affected, which shall include a statement of the intended future uses of the area and show the approximate sequence in which mining and reclamation measures are to occur, the approximate intervals following mining during which the reclamation of all various parts of the area affected will be completed, and the measures the operator will perform to prevent damage to adjoining property and to achieve all of the following general performance standards for mining and reclamation:

(a) Prepare the site adequately for its intended future uses upon completion of mining;

(b) Where a plan of zoning or other comprehensive plan has been adopted that governs land uses or the construction of public improvements and utilities for an area that includes the area sought to be mined, ensure that future land uses within the site will not conflict with the plan; On and after the effective date of this amendment, division (A)(10)(b) of this section does not apply to any surface or in-stream mining permit or applications for a surface or in-stream mining permit, any renewal of an existing surface or

-stream mining permit or application for a renewal of an existing surface or in-stream mining permit, any amendment or application for an amendment to an existing surface or in-stream mining permit, or any modification or application for a modification of a mining and reclamation plan of an existing surface or in-stream mining permit unless the application for such a permit, renewal, amendment, or modification is a resubmission, revision, or reconsideration of an application that was pending before the chief or was first approved prior to the effective date of this amendment.

(c) Grade, contour, or terrace final slopes, wherever needed, sufficient to achieve soil stability and control landslides, erosion, and sedimentation. Highwalls will be permitted if they are compatible with the future uses specified in the plan and measures will be taken to ensure public safety. Where ponds, impoundments, or other resulting bodies of water are intended for recreational use, establish banks and slopes that will ensure safe access to those bodies of water. Where such bodies of water are not intended for recreation, include measures to ensure public safety, but access need not be provided.

(d) Resoil the area of land affected, wherever needed, with topsoil or suitable subsoil, fertilizer, lime, or soil amendments, as appropriate, in sufficient quantity and depth to raise and maintain a diverse growth of vegetation adequate to bind the soil and control soil erosion and sedimentation;

(e) Establish a diverse vegetative cover of grass and legumes or trees, grasses, and legumes capable of self-regeneration and plant succession wherever required by the plan;

(f) Remove or bury any metal, lumber, equipment, or other refuse resulting from mining, and remove or bury any unwanted or useless structures;

(g) Reestablish boundary, section corner, government, and other survey monuments that were removed by the operator;

(h) During mining and reclamation, ensure that contamination, resulting from mining, of underground water supplies is prevented. Upon completion of reclamation, ensure that any watercourse, lake, or pond located within the site boundaries is free of substances resulting from mining in amounts or concentrations that are harmful to persons, fish, waterfowl, or other beneficial species of aquatic life.

(i) During mining and reclamation, control drainage so as to prevent the causing of flooding, landslides, and flood hazards to adjoining lands resulting from the mining operation. Leave any ponds in such condition as to avoid their constituting a hazard to adjoining lands.

(j) During mining and reclamation, ensure that the effect of any reduction of the quantity of ground water is minimized;

~~(j)~~(k) Ensure that mining and reclamation are carried out in the sequence and manner set forth in the plan and that reclamation measures are performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the mining of the area unless the operator makes a showing satisfactory to the chief that the future use of the area requires a longer period for completing reclamation.

~~(k)~~(l) During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing, and resoiling that ~~is~~ are specified in the plan. Stabilize the slopes of and plant each spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur.

~~(l)~~(m) During mining, promptly remove, store, or cover any coal, pyritic shale, or other acid producing materials in a manner that will minimize acid drainage and the accumulation of acid water;

~~(m)~~(n) During mining, detonate explosives in a manner that will prevent damage to adjoining property;

(o) In the case of in-stream mining, do all of the following:

(i) Limit access to the channel of a watercourse to a single point of entry on one bank of the watercourse;

(ii) Maintain riparian vegetation to the fullest extent possible;

(iii) Upon cessation of in-stream mining, stabilize and reclaim to the pre-mined condition the banks of a watercourse affected by in-stream mining.

~~(10)~~(11) For any applicant, except an applicant for an in-stream mining permit, who intends to extract less than ten thousand tons of minerals per year and no incidental coal, a current tax map, in triplicate and notarized, and the appropriate United States geological survey seven and one-half minute topographic map. Each copy shall bear the applicant's name and shall identify the area of land to be affected corresponding to the application.

~~(11)~~(12) For any applicant for a surface mining permit who intends to extract ten thousand tons of minerals or more per year or who intends to extract any incidental coal irrespective of the tonnage of minerals intended to be mined, a map, in triplicate, on a scale of not more than four hundred feet to the inch, or three copies of an enlarged United States geological survey topographic map on a scale of not more than four hundred feet to the inch. Each application for an in-stream mining permit shall include such a map regardless of the tons of minerals that the applicant intends to extract.

The map shall comply with all of the following:

(a) Be prepared and certified by a professional engineer or surveyor registered under Chapter 4733. of the Revised Code;

(b) Identify the area of land to be affected corresponding to the application;

(c) Show the probable limits of subjacent and adjacent deep, strip, ~~or~~ surface, or in-stream mining operations, whether active, inactive, or mined out;

(d) Show the boundaries of the area of land to be affected during the period of the permit and the area of land estimated to be affected during the first year of operation, and name the surface and mineral owners of record of the area and the owners of record of adjoining surface properties;

(e) Show the names and locations of all streams, creeks, or other bodies of water, roads, railroads, utility lines, buildings, cemeteries, and oil and gas wells on the area of land to be affected and within five hundred feet of the perimeter of the area;

(f) Show the counties, municipal corporations, townships, and sections in which the area of land to be affected is located;

(g) Show the drainage plan on, above, below, and away from the area of land to be affected, indicating the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving or to receive this discharge;

(h) Show the location of available test boring holes that the operator has conducted on the area of land to be affected or otherwise has readily available;

(i) Show the date on which the map was prepared, the north direction and the quadrangle sketch, and the exact location of the operation;

(j) Show the type, kind, location, and references of all existing boundary, section corner, government, and other survey monuments within the area to be affected and within five hundred feet of the perimeter of the area.

The certification of the maps shall read: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all of the information required by the surface or in-stream mining laws, as applicable, of the state." The certification shall be signed and attested before a notary public. The chief may reject any map as incomplete if its accuracy is not so certified and attested.

~~(12)~~(13) A certificate of public liability insurance issued by an insurance company authorized to do business in this state or obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code covering all

urface or in-stream mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts not less than the following:

(a) One hundred thousand dollars for all damages because of bodily injury sustained by one person as the result of any one occurrence, and three hundred thousand dollars for all damages because of bodily injury sustained by two or more persons as the result of any one occurrence;

(b) One hundred thousand dollars for all claims arising out of damage to property as the result of any one occurrence, with an aggregate limit of three hundred thousand dollars for all property damage to which the policy applies.

(14) A sworn statement by the applicant that, during the term of any permit issued under this chapter or of any renewal of such a permit, the applicant will comply with all applicable zoning resolutions or ordinances that are in effect at the time the application is filed unless the resolutions or ordinances subsequently become invalid during the term of the permit or renewal;

(15) A copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code, if applicable;

(16) For any applicant whose operation may result in dewatering, a compilation of data in a form that is prescribed by the chief and that is suitable to conduct ground water modeling in order to establish a projected cone of depression for purposes of section 1514.13 of the Revised Code. The chief shall adopt rules as provided in section 1514.08 of the Revised Code establishing the minimum requirements and standards governing the data required under this division.

(17) A statement by the applicant certifying that the applicant has communicated with the county engineer of the county in which the proposed surface or in-stream mining operation will be located regarding any streets and roads under the county engineer's jurisdiction that will be used by vehicles entering and leaving the proposed surface or in-stream mining operation;

(18) In the case of an application for an in-stream mining permit, a hydraulic evaluation of the watercourse prepared by a professional engineer registered under Chapter 4733. of the Revised Code. The hydraulic evaluation shall include, without limitation, all of the following:

(a) Soundings that depict the cross-sectional views of the channel bottom of the watercourse and water elevations for the watercourse;

(b) A profile of the channel bottom;

(c) An analysis of design flows and water surface profiles for the watercourse prior to in-stream mining and the proposed final mining condition;

(d) An analysis of the expected changes in the roughness coefficient, resistance to water flow velocity, and hydraulic gradient in the channel bottom due to the proposed mining;

(e) Any additional information that the chief requires in order to evaluate the potential impact of in-stream mining on the watercourse and to determine if any additional performance standards are required to protect the environment and property outside the limits of the operation as established in the permit.

(B) No permit application or amendment shall be approved by the chief if the chief finds that the reclamation described in the application will not be performed in full compliance with this chapter or that there is not reasonable cause to believe that reclamation as required by this chapter will be accomplished.

The chief shall issue an order denying an application for an operating permit or an amendment if the chief determines that the measures set forth in the plan are likely to be inadequate to prevent damage to adjoining property or to achieve one or more of the performance standards required in division (A)~~(9)~~(10) of this section.

No permit application or amendment shall be approved if the approval would result in a violation of division (E), (F), or (G) of section 1514.10 of the Revised Code.

No permit application or amendment shall be approved to surface mine land adjacent to a public road in violation of section 1563.11 of the Revised Code.

To ensure adequate lateral support, no permit application or amendment shall be approved to engage in surface or in-stream mining on land that is closer than fifty feet of horizontal distance to any adjacent land or waters in which the operator making application does not own the surface or mineral rights unless the owners of the surface and mineral rights in and under the adjacent land or waters consent in writing to surface or in-stream mining closer than fifty feet of horizontal distance. The consent, or a certified copy thereof, shall be attached to the application as a part of the permanent record of the application for a surface or in-stream mining permit.

The chief shall issue an order granting a permit upon the chief's approval of an application, as required by this section, filing of the performance bond required by section 1514.04 of the Revised Code, ~~and payment of a permit fee in the amount of two hundred fifty dollars and an~~

acreage fee in the amount of ~~thirty~~ seventy-five dollars multiplied by the number of acres estimated in the application that will comprise the area of land to be affected within the first year of operation under the permit, ~~but which acreage fee shall not exceed one thousand dollars per year and payment of a permit fee.~~ The amount of the permit fee for a surface mining permit shall be five hundred dollars, and the amount of the permit fee for an in-stream mining permit shall be two hundred fifty dollars.

The chief may issue an order denying a permit if the chief finds that the applicant, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has substantially or materially failed to comply or continues to fail to comply with this chapter, which failure may consist of one or more violations thereof, a rule adopted thereunder, or an order of the chief or failure to perform reclamation as required by this chapter. The chief may deny or revoke the permit of any person who so violates or fails to comply or who purposely misrepresents or omits any material fact in the application for the permit or an amendment to a permit.

If the chief denies the permit, the chief shall state the reasons for denial in the order denying the permit.

Each permit shall be issued upon condition that the operator will comply with this chapter and perform the measures set forth in the operator's plan of mining and reclamation in a timely manner ~~and upon the right of the~~. The chief, mineral resources inspectors, or other authorized representatives of the chief ~~to~~ may enter upon the premises of the operator at reasonable times for the purposes of determining whether or not there is compliance with this chapter.

(C) If the chief approves ~~the~~ an application for a surface mining permit, the order granting the permit shall authorize the person to whom the permit is issued to engage as the operator of a surface mining operation upon the land described in the permit during a period that shall expire ~~ten~~ fifteen years after the date of issuance of the permit, or upon the date when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.

If the chief approves an application for an in-stream mining permit, the order granting the permit shall authorize the person to whom the permit is issued to engage as the operator of an in-stream mining operation on the land described in the permit during a period that shall expire two years after

the date of issuance of the permit, or on the date when the chief, after inspection, orders the release of any remaining bond, cash, irrevocable letters of credit, or certificates of deposit that were deposited to ensure satisfactory performance of the reclamation measures required under this chapter, whichever occurs earlier.

(D) Before an operator engages in a surface or in-stream mining operation on land not described in the operator's permit, but that is contiguous to the land described in the operator's permit, the operator shall file with the chief an application for an amendment to the operator's permit. Before approving an amendment, the chief shall require the information, maps, fees, and amount, except as otherwise provided by rule, of the performance bond as required for an original application under this section and shall apply the same prohibitions and restrictions applicable to land described in an original application for a permit. An applicant for a significant amendment to a permit, as "significant" is defined by rule, shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code. If the chief disapproves the amendment, the chief shall state the reasons for disapproval in the order disapproving the amendment. Upon the approval of an amendment by the chief, the operator shall be authorized to engage in surface mining on the land or in-stream mining in the watercourse described in the operator's original permit plus the land or area of the watercourse described in the amendment until the date when the permit expires, or when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.

(E) An operator, at any time and upon application therefor and approval by the chief, may amend the plan of mining and reclamation filed with the application for a permit in order to change the reclamation measures to be performed, modify the interval after mining within which reclamation measures will be performed, change the sequence in which mining or reclamation will occur at specific locations within the area affected, mine acreage previously mined or reclaimed, or for any other purpose, provided that the plan, as amended, includes measures that the chief determines will be adequate to prevent damage to adjoining property and to achieve the performance standards set forth in division (A)~~(9)~~(10) of this section. An application for a significant amendment to a plan, as "significant" is defined by rule, shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code.

The chief may propose one or more amendments to the plan in writing, within ninety days after the fifth anniversary of the date of issuance of ~~the a~~ surface mining permit and or within ninety days after the first anniversary of the date of issuance of an in-stream mining permit. The chief's proposal may be made upon a finding of any of the following conditions after a complete review of the plan and inspection of the area of land affected, and the plan shall be so amended upon written concurrence in the findings and approval of the amendments by the operator:

(1) An alternate measure, in lieu of one previously approved in the plan, will more economically or effectively achieve one or more of the performance standards.

(2) Developments in reclamation technology make an alternate measure to achieve one or more of the performance standards more economical, feasible, practical, or effective.

(3) Changes in the use or development of adjoining lands require changes in the intended future uses of the area of land affected in order to prevent damage to adjoining property.

~~(F) The chief shall issue an order granting or denying an operating permit or amendment to a permit or approving or denying an amendment to the operator's plan of mining and reclamation within ninety days after the filing of an application therefor. If the chief fails to act within that period with respect to a surface mining operation that existed prior to the initial date by which the chief requires a permit to be obtained, the operator may continue the operation until the chief issues an order denying a permit for the operation, and if the operator elects to appeal the order pursuant to section 1513.13 of the Revised Code, until the reclamation commission affirms the order of the chief denying the permit, and if the operator elects to appeal the order of the commission pursuant to section 1513.14 of the Revised Code, until the court of common pleas affirms the order~~ The holder of a surface or in-stream mining permit who desires to transfer the rights granted under the permit to another person at any time during the term of the permit or its renewal shall file with the chief an application for the transfer of the permit. The chief shall issue an order approving or disapproving the transfer of the permit in accordance with criteria and procedures established by rule.

Sec. 1514.021. (A) A permit holder who wishes to continue surface or in-stream mining operations after the expiration date of the existing permit or renewal permit shall file with the chief of the division of mineral resources management an application for renewal of a surface or in-stream mining permit or renewal permit at least ninety days before the expiration

date of the existing permit or renewal permit. The application shall be upon the form that the chief prescribes and provides and shall be accompanied by ~~the a permit fees required under division (B) of section 1514.02 of the Revised Code~~ renewal fee. The amount of the fee for renewal of a surface mining permit or renewal permit shall be one thousand dollars, and the amount of the fee for renewal of an in-stream mining permit or renewal permit shall be five hundred dollars.

(B) Upon receipt of an application for renewal and the permit renewal fee under division (A) of this section, the chief shall notify the applicant to submit a map that is a composite of the information required to be contained in the most recent annual report map under section 1514.03 of the Revised Code and of all surface or in-stream mining and reclamation activities conducted under the existing permit or renewal permit; the annual report required under section 1514.03 of the Revised Code; in the case of an applicant proposing a significant change to the plan of mining and reclamation, as "significant" is defined by rule, a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code; and additional maps, plans, and revised or updated information that the chief determines to be necessary for permit renewal. Within sixty days after receipt of this notification, the applicant shall submit all the required information to the chief.

(C)~~(1)~~ Upon receipt of the information required under division (B) of this section and except as otherwise provided in division (C)(2) of this section, the chief ~~may~~ shall approve the application for renewal and issue an order granting a renewal permit if unless the chief finds that ~~both~~ any of the following ~~apply~~ applies:

~~(1)(a)~~ The permit holder's operation is not in substantial or material compliance with this chapter, rules adopted and orders issued under it, and the plan of mining and reclamation under the existing permit or renewal permit;

~~(2)(b)~~ The permit holder has not provided evidence that a performance bond filed under section 1514.04 of the Revised Code applicable to lands affected under the existing permit or renewal permit will remain effective until released under section 1514.05 of the Revised Code.

(c) The permit holder, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has failed substantially or materially to comply or continues to fail to comply with this chapter as provided in section 1514.02 of the Revised Code.

(2) If the application for renewal proposes significant changes to the plan of mining and reclamation, as "significant" is defined by rule, the chief may, but is not required to, approve the application for renewal.

(D) Within sixty days after receiving the information and permit renewal fees required under divisions (A) and (B) of this section, the chief shall approve the application for renewal and issue an order granting a renewal permit, issue an order denying the application, or notify the applicant that the time limit for issuing such an order has been extended. This extension of time shall not exceed sixty days.

(E) If an applicant for a renewal permit has complied with division (A) of this section, the applicant may continue surface or in-stream mining operations under the existing permit or renewal permit after its expiration date until the sixty-day period for filing the information required by the chief under division (B) of this section has expired or until the chief issues an order under division (D) of this section denying the renewal permit.

(F) A permit holder who fails to submit an application and required permit renewal fees within the time prescribed by division (A) of this section shall cease surface or in-stream mining operations on the expiration date of the existing permit or renewal permit. If such a permit holder then submits an application for renewal and the permit renewal fees otherwise required by division (A) of this section on or before the thirtieth day after the expiration date of the expired permit or renewal permit and provides the information required by the chief under division (B) of this section within sixty days after being notified of the information required under that division, the permit holder need not submit the final map and report required by section 1514.03 of the Revised Code until the later of thirty days after the chief issues an order denying the application for renewal or thirty days after the chief's order is affirmed upon appeal under section 1513.13 or 1513.14 of the Revised Code. An applicant under this division who fails to provide the information required by the chief under division (B) of this section within the prescribed time period shall submit the final map and report required by section 1514.03 of the Revised Code within thirty days after the expiration of that prescribed period.

(G) If the chief issues an order denying an application for renewal of a permit or renewal permit after the expiration date of the permit, the permit holder shall cease surface or in-stream mining operations immediately and, within thirty days after the issuance of the order, shall submit the final report and map required under section 1514.03 of the Revised Code. The chief shall state the reasons for denial in the order denying renewal of the application. An applicant may appeal the chief's order denying the renewal

under section 1513.13 of the Revised Code and may continue surface or in-stream mining and reclamation operations under the expired permit until the reclamation commission affirms the chief's order under that section and, if the applicant elects to appeal the order of the commission under section 1513.14 of the Revised Code, until the court of appeals affirms the order.

(H) The approval of an application for renewal under this section authorizes the continuation of ~~the~~ an existing surface mining permit or renewal permit for a term of ~~ten~~ fifteen years from the expiration date of the existing permit.

The approval of an application for renewal under this section authorizes the continuation of an existing in-stream mining permit or renewal permit for a term of two years from the expiration date of the existing permit.

(I) Any renewal permit is subject to all the requirements of this chapter and rules adopted under it.

Sec. 1514.022. (A) As used in this section:

(1) "Application" means any of the following:

(a) An application filed under division (A) of section 1514.02 of the Revised Code for an initial permit for a proposed surface or in-stream mining operation;

(b) An application filed under division (D) of section 1514.02 of the Revised Code for a significant amendment to a permit, as "significant" is defined by rule;

(c) An application filed under division (E) of section 1514.02 of the Revised Code for a significant amendment to the plan of mining and reclamation that is proposed by the operator, as "significant" is defined by rule;

(d) An application filed under section 1514.021 of the Revised Code for the renewal of a permit if the application proposes a significant change to the plan of mining and reclamation, as "significant" is defined by rule.

(2) "Applicant" means a person who files an application.

(3) "Governmental agency" means each board of county commissioners, each board of township trustees, each legislative authority of a municipal corporation, and the planning commissioners having jurisdiction over all or part of the area of a surface or in-stream mining operation or a proposed surface or in-stream mining operation together with any other federal, state, or local governmental entities that the chief of the division of mineral resources management reasonably believes will be interested in an application.

(B)(1) Except as otherwise provided in division (D) of this section, an applicant shall submit to the chief a copy of the applicant's advertisement

required to be published under this division of the ownership, precise location, and boundaries of land to be affected by the surface or in-stream mining operation or proposed surface or in-stream mining operation that is the subject of the application.

Upon receiving the application and advertisement, the chief shall designate a location at which the application will be available for public inspection and shall assign to the application an application identification number. When the chief determines that the application is substantially complete, the chief shall notify the applicant of the determination. At that time, the applicant shall place the advertisement, together with the application identification number and the notice of the location at which the application will be available for inspection, in a newspaper of general circulation in the locality of the operation or proposed operation at least once a week for four consecutive weeks.

(2) Except as otherwise provided in division (D) of this section, upon determining that an application is substantially complete, the chief shall provide written notice to governmental agencies. The notice shall include all of the information required to be published under division (B)(1) of this section together with the date by which any written comments or objections must be received by the chief for consideration in the review of the application. That date shall be the date that is thirty days following the date on which the chief sends the notice to the governmental agencies.

If requested by a governmental agency within thirty-five days following the date on which the governmental agency receives the written notice from the chief, the chief may hold an informal conference to aid in the public understanding of the permitting process. The informal conference shall be held within two weeks after the chief determines to hold such a conference and shall be held in the county in which the surface or in-stream mining operation is or is proposed to be located.

(C) Except as otherwise provided in division (D) of this section, an operation or any person having an interest that is or may be adversely affected by the operation or proposed operation and any governmental agency may file written comments about or objections to an application with the chief. In the case of interested persons who are not governmental agencies, the comments or objections shall be filed not later than thirty days after the last publication of the notice. In the case of governmental agencies, the comments or objections shall be filed not later than the date that the chief specified in the notice, except that at the chief's discretion, the chief may accept comments or objections from the agencies after that date if the chief considers doing so to be in the public interest. The chief immediately

shall transmit comments or objections to the applicant and shall make them available to the public at the same location at which the application is available for inspection.

(D) Divisions (B) and (C) of this section do not apply if a plan of zoning has been adopted for the area that includes the location at which the operation is conducted or is proposed to be conducted and either of the following applies:

(1) The plan of zoning allows mining at the location at which the mining operation is or is proposed to be conducted.

(2) A zoning variance or conditional use certificate for a mining operation, for which public notice and opportunity for comment have been provided, has been received within three hundred sixty-five days prior to submittal of an application. In such a situation, an applicant shall provide the chief with a copy of the notice, certified by the publisher, that was previously published.

Sec. 1514.023. Nothing in this chapter or rules adopted under it shall be construed to prevent any county, township, or municipal corporation from enacting, adopting, or enforcing zoning resolutions or ordinances. However, the chief of the division of mineral resources management shall not enforce such zoning resolutions or ordinances.

Sec. 1514.024. A local authority may enter into an agreement with the operator of a surface or in-stream mining operation or of a proposed surface or in-stream mining operation for the improvement of roads under the jurisdiction of that local authority that may be affected by the operation or for other improvements within the jurisdiction of that local authority. However, nothing in this section requires the surface or in-stream mining operator to enter into such an agreement.

Sec. 1514.03. Within thirty days after each anniversary date of issuance of a surface or in-stream mining permit, the operator shall file with the chief of the division of mineral resources management an annual report, on a form prescribed and furnished by the chief, that, for the period covered by the report, shall state the amount of and identify the types of minerals and coal, if any coal, produced and shall state the number of acres affected and the number of acres estimated to be affected during the next year of operation. An annual report is not required to be filed if a final report is filed in lieu thereof.

Each annual report for a surface mining operation shall include a progress map indicating the location of areas of land affected during the period of the report and the location of the area of land estimated to be affected during the next year. The map shall be prepared in accordance with

division (A)~~(10)~~(11) or ~~(11)~~(12) of section 1514.02 of the Revised Code, as appropriate, except that a map prepared in accordance with division (A)~~(11)~~(12) of that section may be certified by the operator or authorized agent of the operator in lieu of certification by a professional engineer or surveyor registered under Chapter 4733. of the Revised Code. However, the chief may require that an annual progress map or a final map be prepared by a registered professional engineer or registered surveyor if the chief has reason to believe that the operator exceeded the boundaries of the permit area or, if the operator filed the map required under division (A)~~(10)~~(11) of section 1514.02 of the Revised Code, that the operator extracted ten thousand tons or more of minerals during the period covered by the report.

Each annual report for an in-stream mining operation shall include a statement of the total tonnage removed by in-stream mining for each month and of the surface acreage and depth of material removed by in-stream mining and shall include a map that identifies the area affected by the in-stream mining, soundings that depict the cross-sectional views of the channel bottom of the watercourse, and water elevations for the watercourse.

Each annual report shall be accompanied by a filing fee in the amount of ~~two~~ five hundred fifty dollars ~~and, except in the case of an annual report filed by a small operator or an in-stream mining operator. A small operator, which is a surface mine operator who intends to extract fewer than ten thousand tons of minerals and no coal during the next year of operation under the permit, or an in-stream mining operator shall include a filing fee in the amount of two hundred fifty dollars with each annual report. The annual report of any operator also shall be accompanied by an acreage fee in the amount of thirty~~ seventy-five dollars multiplied by the number of acres estimated in the report to be affected during the next year of operation under the permit. The acreage fee shall be adjusted by subtracting a credit of ~~thirty~~ seventy-five dollars per excess acre paid for the preceding year if the acreage paid for the preceding year exceeds the acreage actually affected or by adding an additional amount of ~~thirty~~ seventy-five dollars per excess acre affected if the acreage actually affected exceeds the acreage paid for the preceding year.

With each annual report the operator shall file a performance bond in the amount, ~~unless otherwise provided by rule, of five hundred one thousand~~ dollars multiplied by the number of acres estimated to be affected during the next year of operation under the permit for which no performance bond previously was filed. ~~The~~ Unless otherwise provided by rule, the bond shall be adjusted by subtracting a credit of ~~five hundred one thousand~~ dollars per

excess acre for which bond was filed for the preceding year if the acreage for which the bond was filed for the preceding year exceeds the acreage actually affected, or by adding an amount of ~~five hundred~~ one thousand dollars per excess acre affected if the acreage actually affected exceeds the acreage for which bond was filed for the preceding year.

Within thirty days after the expiration of the surface or in-stream mining permit, or completion or abandonment of the operation, whichever occurs earlier, the operator shall submit a final report containing the same information required in an annual report, but covering the time from the last annual report to the expiration of the permit, or completion or abandonment of the operation, whichever occurs earlier.

Each final report shall include a map indicating the location of the area of land affected during the period of the report and the location of the total area of land affected under the permit. The map shall be prepared in accordance with division (A)~~(10)~~(11) or ~~(11)~~(12) of section 1514.02 of the Revised Code, as appropriate.

In the case of a final report for an in-stream mining operation, the map also shall include the information required under division (A)(18) of section 1514.02 of the Revised Code.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is larger than the number of acres for which the operator has paid an acreage fee or filed a performance bond, upon notification by the chief, the operator shall pay an additional acreage fee in the amount of ~~thirty~~ seventy-five dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee and shall file an additional performance bond in the amount, unless otherwise provided by rule, of ~~five hundred~~ one thousand dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is smaller than the number of acres for which the operator has filed a performance bond, the chief shall order release of the excess bond. However, the chief shall retain a performance bond in a minimum amount of ~~two~~ ten thousand dollars irrespective of the number of acres affected under the permit. The release of the excess bond shall be in an amount, unless otherwise provided by rule, equal to ~~five hundred~~ one thousand dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

The fees collected pursuant to this section and section 1514.02 of the Revised Code shall be deposited with the treasurer of state to the credit of the surface mining fund created under section 1514.06 of the Revised Code.

If upon inspection the chief finds that any filing fee, acreage fee, performance bond, or part thereof is not paid when due or is paid on the basis of false or substantially inaccurate reports, the chief may request the attorney general to recover the unpaid amounts that are due the state, and the attorney general shall commence appropriate legal proceedings to recover the unpaid amounts.

Sec. 1514.04. Upon receipt of notification from the chief of the division of mineral resources management of the chief's intent to issue an order granting a surface or in-stream mining permit to the applicant, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount, unless otherwise provided by rule, of two ten thousand dollars plus one thousand dollars, or five hundred dollars per acre of land to be affected, whichever is greater. Upon receipt of notification from the chief of the chief's intent to issue an order granting an amendment to a surface or in-stream mining permit, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount, unless otherwise provided by rule, of five hundred one thousand dollars per acre of land to be affected.

In the case of a surface mining permit, the bond shall be filed for the number of acres estimated to be affected during the first year of operation under the permit. In the case of an amendment to a surface mining permit, the bond shall be filed for the number of acres estimated to be affected during the balance of the period until the next anniversary date of the permit.

In the case of an in-stream mining permit, the bond shall be filed for the number of acres of land within the limits of the in-stream mining permit for the entire permit period. In the case of an amendment to an in-stream mining permit, the bond shall be filed for the number of any additional acres of land to be affected within the limits of the in-stream mining permit.

A surety bond filed pursuant to this section and sections 1514.02 and 1514.03 of the Revised Code shall be upon the form that the chief prescribes and provides and shall be signed by the operator as principal and by a surety company authorized to transact business in the state as surety. The bond shall be payable to the state and shall be conditioned upon the faithful performance by the operator of all things to be done and performed by the operator as provided in this chapter and the rules and orders of the chief adopted or issued pursuant thereto.

The operator may deposit with the chief, in lieu of a surety bond, cash in an amount equal to the surety bond as prescribed in this section, an irrevocable letter of credit or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or an irrevocable letter of credit or certificates of deposit issued by any savings and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount of the surety bond as prescribed in this section. Cash or certificates of deposit shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. If one or more certificates of deposit are deposited with the chief in lieu of a surety bond, the chief shall require the bank or savings and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate, or certificates, that is in excess of the amount insured by the federal deposit insurance corporation. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, a letter of credit, or certificates with the chief, the chief shall deliver it to the treasurer of state who shall hold it in trust for the purposes for which it has been deposited. The treasurer of state shall be responsible for the safekeeping of such deposits. An operator making a deposit of cash, a letter of credit, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any part of the cash, letter of credit, or certificates in the possession of the treasurer of state, upon depositing with the treasurer of state cash, an irrevocable letter of credit, or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or an irrevocable letter of credit or certificates of deposit issued by any savings and loan association, equal in value to the value of the cash, letter of credit, or certificates withdrawn. An operator may demand and receive from the treasurer of state all interest or other income from any certificates as it becomes due. If certificates deposited with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the operator who deposited them, shall convert the proceeds of the redemption or payment of the certificates into such other negotiable certificates of deposit issued by any bank organized or transacting business in this state, such other certificates of deposit issued by any savings and loan association, or cash, as may be designated by the operator.

A governmental agency, as defined in division (A) of section 1514.022 of the Revised Code, or a board or commission that derives its authority from a governmental agency shall not require a surface or in-stream mining

operator to file a surety bond or any other form of financial assurance for the reclamation of land to be affected by a surface or in-stream mining operation authorized under this chapter.

Sec. 1514.05. (A) At any time within the period allowed an operator by section 1514.02 of the Revised Code to reclaim an area of land affected by surface or in-stream mining, the operator may file a request, on a form provided by the chief of the division of mineral resources management, for inspection of the area of land upon which a phase of the reclamation, ~~other than any required planting~~, is completed. For purposes of inspections and subsequent releases of performance bonds or cash, irrevocable letters of credit, or certificates of deposit deposited in lieu of bonds under this section, reclamation shall be considered to occur in two phases. The first phase involves grading, contouring, terracing, resoiling, and initial planting. The second phase involves the establishment of vegetative cover together with the maintenance and the completion of all reclamation required under this chapter or rules adopted under it.

A request for inspection at the completion of a phase of reclamation shall include all of the following:

- (1) The location of the area and number of acres;
- (2) The permit number;
- (3) The amount of performance bond on deposit at the time of the request to ensure reclamation of the area;
- (4) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(10)(11) or (11)(12) of section 1514.02 of the Revised Code, as appropriate. In the case of an in-stream mining operation, the map also shall include the information required under division (A)(18) of section 1514.02 of the Revised Code.

In addition, a request for inspection of the second phase of reclamation shall include a description of the type and date of any required planting and a statement regarding the degree of success of the growth.

(B) The chief shall make an inspection and evaluation of the reclamation of the area of land for which ~~the~~ a request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief approves the first phase of the reclamation ~~other than any required planting~~ as meeting the requirements of this chapter, rules adopted thereunder, any orders issued during the mining or reclamation, and the specifications of the plan for mining and reclaiming, the chief shall issue an order to the operator and the operator's surety releasing them from liability for ~~one-half the total amount~~ the applicable

percentage specified in this division of their surety bond on deposit to ensure reclamation for the area upon which reclamation is completed. If the chief approves the second phase of the reclamation, the chief shall order release of the remaining performance bond, after completing the inspection and evaluation, in the same manner as in the case of approval of the first phase of reclamation, and the treasurer of state shall proceed as in that case.

On approval of the first phase of reclamation, the chief shall release seventy-five per cent of the amount of the surety bond on deposit. On approval of the second phase of reclamation, the chief shall release the remaining amount of the surety bond that originally was on deposit.

If the operator has deposited cash, an irrevocable letter of credit, or certificates of deposit in lieu of a surety bond to ensure reclamation, the chief shall issue an order to the operator releasing one-half of the total amount so held in the same manner and in the same percentages that apply to the release of a surety bond and promptly shall transmit a certified copy of the order to the treasurer of state. Upon presentation of the order to the treasurer of state by the operator to whom it was issued, or by the operator's authorized agent, the treasurer of state shall deliver to the operator or the operator's authorized agent the cash, irrevocable letter of credit, or certificates of deposit designated in the order.

(C) If the chief does not approve a phase of the reclamation other than any required planting, the chief shall notify the operator by certified mail. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the performance bond in the same manner as in the case of approval of reclamation other than planting by the chief, and the treasurer of state shall proceed as in that case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall issue another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief shall thereupon proceed under division (C)(D) of this section.

~~(B) At any time within the period allowed an operator by section~~

~~1514.02 of the Revised Code to reclaim an area affected by surface mining, the operator may file a request, on a form provided by the chief, for inspection of the area of land upon which all reclamation, including the successful establishment of any required planting, is completed. The request shall include all of the following:~~

- ~~(1) The location of the area and number of acres;~~
- ~~(2) The permit number;~~
- ~~(3) The remaining amount of performance bond on deposit to ensure reclamation of the area;~~
- ~~(4) The type and date of any required planting of vegetative cover and the degree of success of growth;~~
- ~~(5) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(10) or (11) of section 1514.02 of the Revised Code, as appropriate.~~

~~The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief finds that the reclamation meets the requirements of this chapter, rules adopted thereunder, any orders issued during the mining and reclamation, and the specifications of the plan for mining and reclaiming and decides to release any remaining performance bond on deposit to ensure reclamation of the area upon which reclamation is completed, within ten days of completing the inspection and evaluation, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation other than planting, and the treasurer of state shall proceed as in that case.~~

~~If the chief does not approve the reclamation performed by the operator, the chief shall notify the operator by certified mail within ninety days of the filing of the application for inspection or of the date when the chief learns of the default. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation by the chief, and the treasurer of state shall proceed as in that~~

~~ease. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall make another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief then shall proceed under division (C) of this section.~~

~~(C)(D)~~ Upon issuing an order under division ~~(A) or (B)~~(C) of this section declaring that the operator has failed to reclaim, the chief shall ~~make a finding as to the number and location of the acres of land that the operator has failed to reclaim in the manner required by this chapter. The chief shall order the release of the performance bond in the amount of five hundred dollars per acre for those acres that the chief finds to have been reclaimed in the manner required by this chapter. The release shall be ordered in the same manner as in the case of other approval of reclamation by the chief, and the treasurer of state shall proceed as in that case. If the operator has on deposit cash, an irrevocable letter of credit, or certificates of deposit to ensure reclamation of the area of the land affected, the~~ retain all or part of the performance bond on deposit for reclamation of the affected surface or in-stream mine site. The chief at the same time shall issue an order declaring that the remaining cash, irrevocable letter of credit, or certificates of deposit ~~is, if any, are~~ is, if any, are the property of the state and ~~is~~ are available for use by the chief in performing reclamation of the area and shall proceed in accordance with section 1514.06 of the Revised Code.

If the operator has on deposit a surety bond to ensure reclamation of the area of land affected, the chief shall notify the surety in writing of the operator's default and shall request the surety to perform the surety's obligation and that of the operator. The surety, within ten days after receipt of the notice, shall notify the chief as to whether it intends to perform those obligations.

If the surety chooses to perform, it shall arrange for work to begin within thirty days of the day on which it notifies the chief of its decision. If the surety completes the work as required by this chapter, the chief shall issue an order to the surety releasing the surety from liability under the bond in the same manner as if the surety were an operator proceeding under this section. If, after the surety begins the work, the chief determines that the surety is not carrying the work forward with reasonable progress, or that it is improperly performing the work, or that it has abandoned the work or otherwise failed to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work

and demanding payment of the amount due as required by this chapter.

If the surety chooses not to perform and so notifies the chief, does not respond to the chief's notice within ten days of receipt thereof, or fails to begin work within thirty days of the day it timely notifies the chief of its decision to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work and demanding payment of the amount due, as required by this chapter.

Upon receipt of an order of the chief demanding payment of the amount due, the surety immediately shall deposit with the chief cash in the full amount due under the order for deposit with the treasurer of state. If the surety fails to make an immediate deposit, the chief shall certify it to the attorney general for collection. When the chief has issued an order terminating the right of the surety and has the cash on deposit, the cash is the property of the state and is available for use by the chief, who shall proceed in accordance with section 1514.06 of the Revised Code.

Sec. 1514.06. (A) There is hereby created in the state treasury the surface mining fund. All cash that becomes the property of the state pursuant to section 1514.05 of the Revised Code shall be deposited in the fund, and expenditures from the fund shall be made by the chief of the division of mineral resources management only for the purpose of reclaiming areas of land affected by surface or in-stream mining operations on which an operator has defaulted.

(B) Expenditures of moneys from the fund, except as otherwise provided by this section, shall be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor, as specified and provided in the contracts, for the prices stipulated therein. With the approval of the director of natural resources, the chief may reclaim the land in the same manner as the chief required of the operator who defaulted. Each contract awarded by the chief shall be awarded to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after so advertising for bids, no bids are received by the chief at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will be best served, the chief may enter into a contract for the reclamation of the area of land without further

advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published.

(C) With the approval of the director, the chief, without advertising for bids, may enter into a contract with the landowner, a surface or in-stream mine operator or coal mine operator mining under a current, valid permit issued under this chapter or Chapter 1513. of the Revised Code, or a contractor hired by a surety to complete reclamation, to carry out reclamation on land affected by surface or in-stream mining operations on which an operator has defaulted.

(D) With the approval of the director, the chief may carry out all or part of the reclamation work on land affected by surface or in-stream mining operations on which the operator has defaulted using the employees and equipment of any division of the department of natural resources.

(E) The chief shall require every contractor performing reclamation work under this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work, as determined by the chief under section 1513.02 of the Revised Code.

(F) Each contract entered into by the chief under this section shall provide only for the reclamation of land affected by the surface or in-stream mining operation or operations of one operator and not reclaimed by the operator as required by this chapter. If there is money in the fund derived from the performance bond deposited with the chief by one operator to ensure the reclamation of two or more areas of land affected by the surface or in-stream mining operation or operations of one operator and not reclaimed by the operator as required by this chapter, the chief may award a single contract for the reclamation of all such areas of land.

(G) The cost of the reclamation work done under this section on each area of land affected by surface or in-stream mining operations on which an operator has defaulted shall be paid out of the money in the fund derived from the performance bond that was deposited with the chief to ensure the reclamation of that area of land. If the amount of money is not sufficient to pay the cost of doing all of the reclamation work on the area of land that the operator should have done, but failed to do, the chief may expend from the reclamation forfeiture fund created in section 1513.18 of the Revised Code or the surface mining fund created in this section the amount of money needed to complete reclamation to the standards required by this chapter. The operator is liable for that expense in addition to any other liabilities imposed by law. At the request of the chief, the attorney general shall bring

an action against the operator for the amount of the expenditures from either fund. Moneys so recovered shall be deposited in the appropriate fund from which the expenditures were made.

(H) If any part of the money in the surface mining fund remains in the fund after the chief has caused the area of land to be reclaimed and has paid all the reclamation costs and expenses, or if any money remains because the area of land has been repermited under this chapter or reclaimed by a person other than the chief, the chief may expend the remaining money to complete other reclamation work performed under this section.

Sec. 1514.07. Each order of the chief of the division of mineral resources management affecting the rights, duties, or privileges of an operator or the operator's surety or of an applicant for a permit or an amendment to a permit or a plan shall be in writing and contain a finding by the chief of the facts upon which the order is based. Notice of the order shall be given by certified mail to each person whose rights, duties, or privileges are affected.

If the chief finds that an operator has violated any requirement of this chapter, failed to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve, or has otherwise failed to achieve, the performance standards of division (A)~~(9)~~(10) of section 1514.02 of the Revised Code, or caused damage to adjoining property, the chief may issue orders directing the operator to cease violation, perform such measures, achieve such standards, or prevent or abate off-site damage. The order shall identify the operation where the violation occurs, the specific requirement violated, measure not performed, standard not achieved, or off-site damage caused, and where practicable prescribe what action the operator may take to comply with the order. The chief shall fix and set forth in the order a reasonable date or time by which the operator shall comply, and the order shall state that the chief may revoke the operator's permit if the order is not complied with by ~~such that~~ date or time. If upon ~~such that~~ date or time the chief finds that the operator has not complied with the order, the chief may issue an order revoking the operator's permit.

Sec. 1514.071. (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.

Sec. 1514.072. Whenever a person fails to comply with an order issued by the chief of the division of mineral resources management, the chief, in

addition to any other remedy under this chapter, may request the attorney general to institute a civil action to compel compliance with the order, including a permanent or temporary injunction, a restraining order, or any other appropriate order, in the court of common pleas of the county in which the noncompliance is occurring or has occurred. The court shall grant the relief requested upon a demonstration that noncompliance with an order of the chief is occurring or has occurred.

Sec. 1514.08. (A) The chief of the division of mineral resources management may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code in order to prescribe procedures for submitting applications for permits, amendments to permits, and amendments to plans of mining and reclamation; filing annual reports and final reports; requesting inspection and approval of reclamation; paying permit and filing fees; and filing and obtaining the release of performance bonds deposited with the state. For the purpose of preventing damage to adjoining property or achieving one or more of the performance standards established in division ~~(A)(9)~~(10) of section 1514.02 of the Revised Code, the chief may establish classes of mining industries, based upon industrial categories, combinations of minerals produced, and geological conditions in which surface or in-stream mining operations occur, and may prescribe different rules consistent with the performance standards for each class. For the purpose of apportioning the workload of the division of mineral resources management among the quarters of the year, the rules may require that applications for permits and annual reports be filed in different quarters of the year, depending upon the county in which the operation is located.

(B) The chief shall adopt rules under this section that do all of the following:

(1) With respect to in-stream mining, and in consultation with the chief of the division of water, determine periods of low flow, which are the only time periods during which in-stream mining is allowed, and develop and implement any criteria, in addition to the criteria established in section 1514.02 of the Revised Code, that the chief determines are necessary for the permitting of in-stream mining;

(2) Establish criteria and procedures for approving or disapproving the transfer of a surface or in-stream mining permit under division (F) of section 1514.02 of the Revised Code;

(3) Define when any of the following may be considered to be "significant" for purposes of section 1514.022 of the Revised Code:

(a) An amendment to a permit issued under section 1514.02 of the Revised Code for a surface or in-stream mining operation;

(b) An amendment to the plan of mining and reclamation that must be filed with an application for either permit under section 1514.02 of the Revised Code;

(c) Changes to that plan of mining and reclamation that are proposed in a permit renewal application filed under section 1514.021 of the Revised Code.

In defining "significant," the chief shall focus on changes that increase the likelihood that the mining operation may have a negative impact on the public.

(4) Establish a framework and procedures under which the amount of any bond required to be filed under this chapter to ensure the satisfactory performance of the reclamation measures required under this chapter may be reduced by subtracting a credit based on the operator's past compliance with this chapter and rules adopted and orders issued under it. The rules also shall apply to cash, an irrevocable letter of credit, or a certificate of deposit that is on deposit in lieu of a bond. In establishing the amount of credit that an operator or applicant may receive based on past compliance, the chief may consider past compliance with respect to any permit for a surface or in-stream mining operation that has been issued in this state to the operator or applicant.

(5) Establish criteria and procedures for granting a variance from compliance with the prohibitions established in divisions (E)(3) and (F)(3) of section 1514.10 of the Revised Code. The criteria shall ensure that an operator may obtain a variance only if compliance with the applicable prohibition is not necessary to prevent damage to the watercourse or surrounding areas.

Sec. 1514.09. The reclamation commission established pursuant to section 1513.05 of the Revised Code shall serve as the reclamation commission pursuant to this chapter. However, whenever the commission is considering any appeal pertaining to surface or in-stream mining, as distinguished from coal strip mining, the member representing the coal strip mine operators shall be replaced by a person who, by reason of the person's previous vocation, employment, or affiliations, can be classed as a representative of surface or in-stream mine operators, as applicable. The appointment of ~~said~~ that person shall be made in accordance with section 1513.05 of the Revised Code, and the person's term shall be concurrent with that of the representative of the coal strip mine operators.

No party to an appeal brought under this section shall be eligible for an award of attorney's fees, costs, or expenses from the commission or any court.

Notwithstanding section 1513.14 of the Revised Code, appeals from an order of the commission pertaining to surface or in-stream mining may be taken to the court of common pleas of the county in which the operation is located, or to the court of common pleas of Franklin county.

Sec. 1514.10. No person shall:

(A)(1) Engage in surface mining without a permit;

(2) Engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief of the division of mineral resources management. A person who, on the effective date of this amendment, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this chapter until the existing permit expires.

(B) Exceed the limits of a surface or in-stream mining permit or amendment to a permit by mining land contiguous to an area of land affected under a permit or amendment, which contiguous land is not under a permit or amendment;

(C) Purposely misrepresent or omit any material fact in an application for a surface or in-stream mining permit or amendment, an annual or final report, or ~~in~~ any hearing or investigation conducted by the chief ~~of the division of mineral resources management~~ or the reclamation commission;

(D) Fail to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve a performance standard required in division (A)(~~9~~)(10) of section 1514.02 of the Revised Code, or violate any other requirement of this chapter, a rule adopted thereunder, or an order of the chief;

(E) Conduct surface excavations of minerals within any of the following:

(1) One hundred twenty feet horizontal distance outward from the highwater mark on each bank of an area designated as a wild, scenic, or recreational river area under sections 1517.14 to 1517.18 of the Revised Code or of a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on

each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

(F) Conduct any surface mining activity within any of the following:

(1) Seventy-five feet horizontal distance outward from the highwater mark on each bank of an area designated as a wild, scenic, or recreational river area under sections 1517.14 to 1517.18 of the Revised Code or of a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended;

(2) Seventy-five feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than one hundred square miles;

(3) Fifty feet horizontal distance outward from the highwater mark on each bank of a watercourse that drains a surface area of more than twenty-five square miles, but fewer than one hundred square miles unless a variance is obtained under rules adopted by the chief.

A person who has been issued a surface mining permit prior to the effective date of this amendment may continue to operate under that permit and shall not be subject to the prohibitions established in divisions (E) and (F) of this section until the permit is renewed.

The number of square miles of surface area that a watercourse drains shall be determined by consulting the "gazetteer of Ohio streams," which is a portion of the Ohio water plan inventory published in 1960 by the division of water in the department of natural resources, or its successor, if any.

(G) Engage in any part of a process that is followed in the production of minerals from the bottom of the channel of a watercourse in any of the following circumstances or areas:

(1) In an area designated as a wild, scenic, or recreational river area under sections 1517.14 to 1517.18 of the Revised Code, in a portion of a river designated as a component of the national wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within one-half mile upstream of any portion of such an area or component;

(2) During periods other than periods of low flow, as determined by rules adopted under section 1514.08 of the Revised Code;

(3) During critical fish or mussel spawning seasons as determined by the chief of the division of wildlife under Chapter 1531. of the Revised Code and rules adopted under it;

(4) In an area known to possess critical spawning habitat for a species of

fish or mussel that is on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code.

Division (G) of this section does not apply to the activities described in divisions (M)(1) and (2) of section 1514.01 of the Revised Code.

Sec. 1514.11. In addition to the purposes authorized in section 1514.06 of the Revised Code, the chief of the division of mineral resources management may use moneys in the surface mining fund created under that section for the administration and enforcement of this chapter, for the reclamation of land affected by surface or in-stream mining under a permit issued under this chapter that the operator failed to reclaim and for which the performance bond filed by the operator is insufficient to complete the reclamation, and for the reclamation of land affected by surface or in-stream mining that was abandoned and left unreclaimed and for which no permit was issued or bond filed under this chapter,~~and. Also, the chief may use the portion of the surface mining fund that consists of moneys collected from the severance taxes levied under section 5749.02 of the Revised Code for the mine safety and first aid classes provided under division (C) of section 1561.26 of the Revised Code. The chief, with the approval of the director of natural resources, annually shall determine the amounts to be expended for the mine safety and first aid classes.~~ For purposes of this section, the chief shall expend moneys in the fund in accordance with the procedures and requirements established in section 1514.06 of the Revised Code and may enter into contracts and perform work in accordance with that section.

Fees collected under sections 1514.02 and 1514.03 of the Revised Code, one-half of the moneys collected from the severance taxes levied under divisions (A)(3) and (4) of section 5749.02 of the Revised Code, and all of the moneys collected from the severance tax levied under division (A)(7) of section 5749.02 of the Revised Code shall be credited to the fund in accordance with those sections. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under section 1514.99 of the Revised Code shall be credited to the fund.

Sec. 1514.12. (A) Explosives shall be used in a manner that prevents injury to persons and damage to public or private property that is located outside the area for which a permit was issued under section 1514.02 or 1514.021 of the Revised Code.

(B) The ground vibration resulting from the use of explosives when measured at any dwelling, public or commercial building, school, church, or

community or institutional building that is located outside the area for which a permit was issued under section 1514.02 or 1514.021 of the Revised Code and that is not owned by the operator shall not exceed the frequency-dependent particle velocity limits listed in the "report of investigations 8507, appendix B -- alternative blasting level criteria, (1980)," published by the former United States bureau of mines, or other limits established by rule.

(C) The airblast resulting from the use of explosives when measured with a two hertz high-pass system at any location listed in division (B) of this section shall not exceed a level of one hundred thirty-three decibels.

(D) On and after July 1, 2003, all blasting in surface mining shall be conducted by persons who are trained and competent in blasting as certified by the chief of the division of mineral resources management or a certifying authority approved by the chief.

(E) The chief shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing requirements and standards governing all of the following:

(1) Seismographic monitoring and alternate methods to prove compliance with the ground vibration limits established under division (B) of this section and the airblast limits established under division (C) of this section;

(2) Protection of any building or structure not listed in division (B) of this section;

(3) Training, examination, and certification of persons conducting blasting in surface mining and suspension or revocation of certifications;

(4) Standard blast warning and all-clear signals;

(5) Blasting records and flyrock reporting requirements;

(6) Safety measures for blasting in surface mining.

(F) The chief may adopt rules under this section that establish limits on the amount of ground vibration resulting from the use of explosives that is permissible when measured at the locations described in division (B) of this section.

Sec. 1514.13. (A) The chief of the division of mineral resources management shall use the compilation of data for ground water modeling submitted under section 1514.02 of the Revised Code to establish a projected cone of depression for any surface mining operation that may result in dewatering. The chief shall consult with the chief of the division of water when projecting a cone of depression. An applicant for a surface mining permit for such an operation may submit ground water modeling that shows a projected cone of depression for that operation to the chief,

provided that the modeling complies with rules adopted by the chief regarding ground water modeling. However, the chief shall establish the projected cone of depression for the purposes of this section.

The chief shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing requirements and standards governing both of the following:

(1) Ground water modeling for establishing a projected cone of depression. A ground water model shall be generally accepted in the scientific community.

(2) Replacement of water supplies.

(B)(1) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the chief receives a written complaint, the chief immediately shall send a copy of the complaint to the operator, and the operator immediately shall respond by sending the chief a statement that explains how the operator resolved or will resolve the complaint. If the operator receives a written complaint, the operator immediately shall send to the chief a copy of the complaint and include a statement that explains how the operator resolved or will resolve the complaint. Not later than seventy-two hours after receipt of the complaint, the operator shall provide the owner a supply of water that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. The operator shall maintain that water supply until the operator provides a permanent replacement water supply to the owner under division (B)(3) of this section or until the division of mineral resources management completes the evaluation under division (B)(2) of this section, whichever is applicable.

(2) A rebuttable presumption exists that the operation caused the diminution, contamination, or interruption of the owner's water supply. However, not later than fourteen days after receipt of the complaint, the operator may submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply. The division shall evaluate the information

submitted by the operator to determine if the presumption is rebutted. If the operator fails to rebut the presumption, the division immediately shall notify the operator that the operator failed to rebut the presumption. Not later than fourteen days after receipt of that notice, the operator shall provide the owner a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. If the operator rebuts the presumption, the division immediately shall notify the operator that the operator rebutted the presumption, and, upon receipt of that notice, the operator may cease providing a supply of water to the owner under division (B)(1) of this section.

(3) If, within fourteen days after receipt of the complaint, the operator does not submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply, the operator shall provide the owner, not later than twenty-eight days after receipt of the complaint, a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply.

(4) The division may investigate a complaint under division (B) of this section.

(C) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is not located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the operator receives a written complaint, the operator immediately shall send the chief a copy of the complaint. If the chief receives a written complaint, the chief immediately shall send the operator a copy of the complaint. The chief shall investigate any complaint submitted under this division and, upon completion of the investigation, immediately shall send the results of the investigation to the operator and to the owner that filed the complaint.

An owner that submits a written complaint under this division may resolve the diminution, contamination, or interruption of the owner's water

supply with the operator of that operation or may commence a civil action for that purpose.

(D) An operator may request the chief to amend the plan of mining and reclamation filed with the application under section 1514.02 of the Revised Code when a ground water user may affect the projected cone of depression established for the operation under division (A) of this section. The operator shall submit additional data that reflect the ground water user's impact on the ground water. The chief shall perform ground water modeling using the additional data and may establish a revised projected cone of depression for that operation.

(E) This section shall not be construed as creating, modifying, or affecting any right, liability, or remedy of surface riparian owners.

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of section 1514.10 of the Revised Code may be fined not more than five thousand dollars plus not more than one thousand dollars per acre of land affected, and is responsible for achieving reclamation of the land as required pursuant to ~~Chapter 1514. of the Revised Code~~ this chapter.

(B) Whoever violates division (B) of section 1514.10 of the Revised Code may be fined not more than one thousand dollars per acre of land affected that is not under permit, and is responsible for achieving reclamation of the land as required pursuant to ~~Chapter 1514. of the Revised Code~~ this chapter.

(C) Whoever violates division (C) of section 1514.10 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars, or imprisoned not more than six months, or both.

(D) Whoever violates division (D), (E), (F), or (G) of section 1514.10 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars for a first offense. For each subsequent offense, on one or more permits held by such persons, such person may be fined not less than two hundred nor more than five thousand dollars, or imprisoned not more than six months, or both. The permit of any person convicted of a third offense may be revoked by the court at the time of ~~such that~~ such that conviction, and ~~such the~~ such the court at ~~such that~~ such that time may further order that no permit or amendment to a permit may be issued to ~~such that~~ such that person under ~~Chapter 1514. of the Revised Code~~ this chapter for a period of five years from the date of ~~such the~~ such the conviction. Nothing contained in this section shall be construed to limit or affect the authority of the chief of the division of mineral resources management granted by this chapter.

Sec. 1561.12. An applicant for any examination or certificate under this section shall, before being examined, register the applicant's name with the

chief of the division of mineral resources management and file with the chief an affidavit as to all matters of fact establishing the applicant's right to receive the examination, a certificate of good character and temperate habits signed by at least three reputable citizens of the community in which the applicant resides, and a certificate from a reputable and disinterested physician as to the physical condition of such applicant showing that the applicant is physically capable of performing the duties of the office or position.

Each applicant for examination for any of the following positions shall present evidence satisfactory to the chief that the applicant has been a resident and citizen of this state for two years next preceding the date of application:

(A) An applicant for the position of deputy mine inspector of underground mines shall have had actual practical experience of not less than six years, at least two of which shall have been in the underground workings of mines in this state. In the case of an applicant who would inspect underground coal mines, the two years shall consist of actual practical experience in underground coal mines. In the case of an applicant who would inspect noncoal mines, the two years shall consist of actual practical experience in noncoal mines. In lieu of two years of the actual practical experience required, the chief may accept as the equivalent thereof a certificate evidencing graduation from an accredited school of mines or mining, after a four-year course of study, but such credit shall not apply as to the two years' actual practical experience required in the mines in this state.

The applicant shall pass an examination as to the applicant's practical and technological knowledge of mine surveying, mining machinery, and appliances; the proper development and operation of mines; the best methods of working and ventilating mines; the nature, properties, and powers of noxious, poisonous, and explosive gases, particularly methane; the best means and methods of detecting, preventing, and removing the accumulation of such gases; the use and operation of gas detecting devices and appliances; first aid to the injured; and the uses and dangers of electricity as applied and used in, at, and around mines. Such applicant shall also hold a certificate for foreperson of gaseous mines issued by the chief.

(B) An applicant for the position of deputy mine inspector of surface mines shall have had actual practical mining experience of not less than six years, at least two of which shall have been in surface ~~coal~~ mines in this state. In lieu of two years of the actual practical experience required, the chief may accept as the equivalent thereof a certificate evidencing

graduation from an accredited school of mines or mining, after a four-year course of study, but that credit shall not apply as to the two years' actual practical experience required in the ~~coal~~ mines in this state. The applicant shall pass an examination as to the applicant's practical and technological knowledge of surface mine surveying, machinery, and appliances; the proper development and operations of surface mines; first aid to the injured; and the use and dangers of explosives and electricity as applied and used in, at, and around surface mines. The applicant shall also hold a surface mine foreperson certificate issued by the chief.

(C) An applicant for the position of electrical inspector shall have had at least five years' practical experience in the installation and maintenance of electrical circuits and equipment in mines, and the applicant shall be thoroughly familiar with the principles underlying the safety features of permissible and approved equipment as authorized and used in mines.

The applicant shall be required to pass the examination required for deputy mine inspectors and an examination testing and determining the applicant's qualification and ability to competently inspect and administer the mining law that relates to electricity used in and around mines and mining in this state.

(D) An applicant for the position of superintendent or assistant superintendent of rescue stations shall possess the same qualifications as those required for a deputy mine inspector. In addition, the applicant shall present evidence satisfactory to the chief that the applicant is sufficiently qualified and trained to organize, supervise, and conduct group training classes in first aid, safety, and rescue work.

The applicant shall pass the examination required for deputy mine inspectors and shall be tested as to the applicant's practical and technological experience and training in first aid, safety, and mine rescue work.

(E) An applicant for the position of mine chemist shall have such educational training as is represented by the degree MS in chemistry from a university of recognized standing, and at least five years of actual practical experience in research work in chemistry or as an assistant chemist. The chief may provide that an equivalent combination of education and experience together with a wide knowledge of the methods of and skill in chemical analysis and research may be accepted in lieu of the above qualifications. It is preferred that such chemist shall have had actual experience in mineralogy and metallurgy.

(F) An applicant for the position of gas storage well inspector shall possess the same qualifications as an applicant for the position of deputy

mine inspector and shall have a practical knowledge and experience of and in the operation, location, drilling, maintenance, and abandonment of oil and gas wells, especially in coal or mineral bearing townships, and shall have a thorough knowledge of the latest and best method of plugging and sealing abandoned oil and gas wells.

Such applicant for gas storage well inspector shall pass an examination conducted by the chief to determine the applicant's fitness to act as a gas storage well inspector before being eligible for appointment.

SECTION 2. That existing sections 1514.01, 1514.02, 1514.021, 1514.03, 1514.04, 1514.05, 1514.06, 1514.07, 1514.08, 1514.09, 1514.10, 1514.11, 1514.99, and 1561.12 of the Revised Code are hereby repealed.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_