

As Introduced

**124th General Assembly
Regular Session
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S. B. No. 83

SENATOR Carnes

A B I L L

To amend sections 1514.01, 1514.02, 1514.021, 1514.03 1
to 1514.11, and 1514.99 and to enact sections 2
1514.022, 1514.023, 1514.024, 1514.071, 1514.072, 3
1514.12, and 1514.13 of the Revised Code to revise 4
the statutes governing the surface and in-stream 5
mining of minerals other than coal. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1514.01, 1514.02, 1514.021, 1514.03, 7
1514.04, 1514.05, 1514.06, 1514.07, 1514.08, 1514.09, 1514.10, 8
1514.11, and 1514.99 be amended and sections 1514.022, 1514.023, 9
1514.024, 1514.071, 1514.072, 1514.12, and 1514.13 of the Revised 10
Code be enacted to read as follows: 11

Sec. 1514.01. ~~(A)~~ As used in this chapter: 12

(A) "Surface mining" means all or any part of a process 13
followed in the production of minerals from the earth or from the 14
surface of the land by surface excavation methods, such as open 15
pit mining, dredging, placering, or quarrying, and includes the 16
removal of overburden for the purpose of determining the location, 17
quantity, or quality of mineral deposits, and the incidental 18
removal of coal at a rate less than one-sixth the total weight of 19
minerals and coal removed during the year, but does not include: 20

test or exploration boring; mining operations carried out beneath 21
the surface by means of shafts, tunnels, or similar mine openings; 22
the extraction of minerals, other than coal, by a landowner for 23
~~his~~ the landowner's own noncommercial use where such material is 24
extracted and used in an unprocessed form on the same tract of 25
land; the extraction of minerals, other than coal, from borrow 26
pits for highway construction purposes, provided that the 27
extraction is performed under a bond, a contract, and 28
specifications that substantially provide for and require 29
reclamation practices consistent with the requirements of this 30
chapter; the removal of minerals incidental to construction work, 31
provided that the owner or person having control of the land upon 32
which the construction occurs, the contractor, or the construction 33
firm possesses a valid building permit; ~~or~~ the removal of minerals 34
to a depth of not more than five feet, measured from the highest 35
original surface elevation of the area to be excavated, where not 36
more than one acre of land is excavated during twelve successive 37
calendar months; or routine dredging of a watercourse for purely 38
navigational purposes during which materials are removed for 39
noncommercial purposes. 40

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 41
halite, limestone, dolomite, sandstone, other stone, metalliferous 42
or nonmetalliferous ore, or other material or substance of 43
commercial value excavated in a solid state from natural deposits 44
on or in the earth, but does not include coal or peat. 45

(C) "Overburden" means all of the earth and other materials 46
that cover a natural deposit of minerals and also means such earth 47
and other materials after removal from their natural state in the 48
process of surface mining. 49

(D) "Spoil bank" means a pile of removed overburden. 50

(E) "Area of land affected" means the area of land that has 51
been excavated, or upon which a spoil bank exists, or both. 52

(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 deposited 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 84
water that develops around a location from which ground water is 85
being withdrawn. 86

(L) "High water mark" means the line on the shore that is 87
established by the fluctuations of water and indicated by physical 88
characteristics such as a natural line impressed on the bank; 89
shelving; changes in the character of soil; destruction of 90
terrestrial vegetation; the presence of litter and debris; or 91
other appropriate means that consider the characteristics of the 92
surrounding area. 93

(M) "In-stream mining" means all or any part of a process 94
followed in the production of minerals from the bottom of the 95
channel of a watercourse that drains a surface area of more than 96
one hundred square miles. "In-stream mining" may be accomplished 97
by using any technique or by using surface excavation methods, 98
such as open pit mining, dredging, placering, or quarrying, and 99
includes the removal of overburden for the purpose of determining 100
the location, quantity, or quality of mineral deposits. "In-stream 101
mining" does not include either of the following: 102

(1) Routine dredging for purely navigational purposes during 103
which materials are removed for noncommercial purposes; 104

(2) The extraction of minerals, other than coal, by a 105
landowner for the landowner's own noncommercial use when the 106
material is extracted and used in an unprocessed form on the same 107
tract of land. 108

For purposes of division (M) of this section, the number of 109
square miles of surface area that a watercourse drains shall be 110
determined by consulting the "gazetteer of Ohio streams," which is 111
a portion of the Ohio water plan inventory published in 1960 by 112
the division of water in the department of natural resources, or 113
its successor, if any. 114

(N) In provisions concerning in-stream mining, when the context is appropriate, "land" is deemed to include an area of a watercourse. 115
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(O) "Watercourse" means any naturally occurring perennial or intermittent stream, river, or creek flowing within a defined stream bed and banks. 118
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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. 121
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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. 127
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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: 136
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(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; 139
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(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;

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~~(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;

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~~(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.

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~~(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 208
general performance standards for mining and reclamation: 209

(a) Prepare the site adequately for its intended future uses 210
upon completion of mining; 211

~~(b) Where a plan of zoning or other comprehensive plan has 212
been adopted that governs land uses or the construction of public 213
improvements and utilities for an area that includes the area 214
sought to be mined, ensure that future land uses within the site 215
will not conflict with the plan; 216~~

~~(c) Grade, contour, or terrace final slopes, wherever needed, 217
sufficient to achieve soil stability and control landslides, 218
erosion, and sedimentation. Highwalls will be permitted if they 219
are compatible with the future uses specified in the plan and 220
measures will be taken to ensure public safety. Where ponds, 221
impoundments, or other resulting bodies of water are intended for 222
recreational use, establish banks and slopes that will ensure safe 223
access to those bodies of water. Where such bodies of water are 224
not intended for recreation, include measures to ensure public 225
safety, but access need not be provided. 226~~

~~(d)(c) Resoil the area of land affected, wherever needed, 227
with topsoil or suitable subsoil, fertilizer, lime, or soil 228
amendments, as appropriate, in sufficient quantity and depth to 229
raise and maintain a diverse growth of vegetation adequate to bind 230
the soil and control soil erosion and sedimentation; 231~~

~~(e)(d) Establish a diverse vegetative cover of grass and 232
legumes or trees, grasses, and legumes capable of 233
self-regeneration and plant succession wherever required by the 234
plan; 235~~

~~(f)(e) Remove or bury any metal, lumber, equipment, or other 236
refuse resulting from mining, and remove or bury any unwanted or 237
useless structures; 238~~

~~(g)~~(f) Reestablish boundary, section corner, government, and 239
other survey monuments that were removed by the operator; 240

~~(h)~~(g) During mining and reclamation, ensure that 241
contamination, resulting from mining, of underground water 242
supplies is prevented. Upon completion of reclamation, ensure that 243
any watercourse, lake, or pond located within the site boundaries 244
is free of substances resulting from mining in amounts or 245
concentrations that are harmful to persons, fish, waterfowl, or 246
other beneficial species of aquatic life. 247

~~(i)~~(h) During mining and reclamation, control drainage so as 248
to prevent the causing of flooding, landslides, and flood hazards 249
to adjoining lands resulting from the mining operation. Leave any 250
ponds in such condition as to avoid their constituting a hazard to 251
adjoining lands. 252

(i) During mining and reclamation, ensure that the effect of 253
any reduction of the quantity of ground water is minimized; 254

(j) Ensure that mining and reclamation are carried out in the 255
sequence and manner set forth in the plan and that reclamation 256
measures are performed in a timely manner. All reclamation of an 257
area of land affected shall be completed no later than three years 258
following the mining of the area unless the operator makes a 259
showing satisfactory to the chief that the future use of the area 260
requires a longer period for completing reclamation. 261

(k) During mining, store topsoil or fill in quantities 262
sufficient to complete the backfilling, grading, contouring, 263
terracing, and resoiling that ~~is~~ are specified in the plan. 264
Stabilize the slopes of and plant each spoil bank to control soil 265
erosion and sedimentation wherever substantial damage to adjoining 266
property might occur. 267

(l) During mining, promptly remove, store, or cover any coal, 268
pyritic shale, or other acid producing materials in a manner that 269

will minimize acid drainage and the accumulation of acid water; 270
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(m) During mining, detonate explosives in a manner that will 272
prevent damage to adjoining property; 273

(n) In the case of in-stream mining, do all of the following: 274
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(i) Limit access to the channel of a watercourse to a single 276
point of entry on one bank of the watercourse; 277

(ii) Maintain riparian vegetation to the fullest extent 278
possible; 279

(iii) Upon cessation of in-stream mining, stabilize and 280
reclaim to the pre-mined condition the banks of a watercourse 281
affected by in-stream mining. 282

~~(10)~~(11) For any applicant, except an applicant for an 283
in-stream mining permit, who intends to extract less than ten 284
thousand tons of minerals per year and no incidental coal, a 285
current tax map, in triplicate and notarized, and the appropriate 286
United States geological survey seven and one-half minute 287
topographic map. Each copy shall bear the applicant's name and 288
shall identify the area of land to be affected corresponding to 289
the application. 290

~~(11)~~(12) For any applicant for a surface mining permit who 291
intends to extract ten thousand tons of minerals or more per year 292
or who intends to extract any incidental coal irrespective of the 293
tonnage of minerals intended to be mined, a map, in triplicate, on 294
a scale of not more than four hundred feet to the inch, or three 295
copies of an enlarged United States geological survey topographic 296
map on a scale of not more than four hundred feet to the inch. 297
Each application for an in-stream mining permit shall include such 298
a map regardless of the tons of minerals that the applicant 299
intends to extract. 300

The map shall comply with all of the following:	301
(a) Be prepared and certified by a professional engineer or surveyor registered under Chapter 4733. of the Revised Code;	302 303
(b) Identify the area of land to be affected corresponding to the application;	304 305
(c) Show the probable limits of subjacent and adjacent deep, strip, or surface, <u>or in-stream</u> mining operations, whether active, inactive, or mined out;	306 307 308
(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;	309 310 311 312 313
(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;	314 315 316 317 318
(f) Show the counties, municipal corporations, townships, and sections in which the area of land to be affected is located;	319 320
(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;	321 322 323 324 325
(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;	326 327 328
(i) Show the date on which the map was prepared, the north direction and the quadrangle sketch, and the exact location of the	329 330

operation; 331

(j) Show the type, kind, location, and references of all 332
existing boundary, section corner, government, and other survey 333
monuments within the area to be affected and within five hundred 334
feet of the perimeter of the area. 335

The certification of the maps shall read: "I, the 336
undersigned, hereby certify that this map is correct, and shows to 337
the best of my knowledge and belief all of the information 338
required by the surface or in-stream mining laws, as applicable, 339
of the state." The certification shall be signed and attested 340
before a notary public. The chief may reject any map as incomplete 341
if its accuracy is not so certified and attested. 342

~~(12)~~(13) A certificate of public liability insurance issued 343
by an insurance company authorized to do business in this state or 344
obtained pursuant to sections 3905.30 to 3905.35 of the Revised 345
Code covering all surface or in-stream mining operations of the 346
applicant in this state and affording bodily injury and property 347
damage protection in amounts not less than the following: 348

(a) One hundred thousand dollars for all damages because of 349
bodily injury sustained by one person as the result of any one 350
occurrence, and three hundred thousand dollars for all damages 351
because of bodily injury sustained by two or more persons as the 352
result of any one occurrence; 353

(b) One hundred thousand dollars for all claims arising out 354
of damage to property as the result of any one occurrence, with an 355
aggregate limit of three hundred thousand dollars for all property 356
damage to which the policy applies. 357

(14) A sworn statement by the applicant that, during the term 358
of any permit issued under this chapter or of any renewal of such 359
a permit, the applicant will comply with all applicable zoning 360
resolutions or ordinances that are in effect at the time the 361

application is filed unless the resolutions or ordinances 362
subsequently become invalid during the term of the permit or 363
renewal; 364

(15) A copy of the advertisement that the applicant is 365
required to have published in accordance with section 1514.022 of 366
the Revised Code, if applicable; 367

~~(14)~~(16) For any applicant whose operation may result in 368
dewatering, a compilation of data in a form that is prescribed by 369
the chief and that is suitable to conduct ground water modeling in 370
order to establish a projected cone of depression for purposes of 371
section 1514.13 of the Revised Code. The chief shall adopt rules 372
as provided in section 1514.08 of the Revised Code establishing 373
the minimum requirements and standards governing the data required 374
under this division. 375

(17) A statement by the applicant certifying that the 376
applicant has communicated with the county engineer of the county 377
in which the proposed surface or in-stream mining operation will 378
be located regarding any streets and roads under the county 379
engineer's jurisdiction that will be used by vehicles entering and 380
leaving the proposed surface or in-stream mining operation; 381

(18) In the case of an application for an in-stream mining 382
permit, a hydraulic evaluation of the watercourse prepared by a 383
professional engineer registered under Chapter 4733. of the 384
Revised Code. The hydraulic evaluation shall include, without 385
limitation, all of the following: 386

(a) Soundings that depict the cross-sectional views of the 387
channel bottom of the watercourse and water elevations for the 388
watercourse; 389

(b) A profile of the channel bottom; 390

(c) An analysis of design flows and water surface profiles 391
for the watercourse prior to in-stream mining and the proposed 392

<u>final mining condition;</u>	393
<u>(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;</u>	394
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<u>(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.</u>	397
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(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.	402
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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.	407
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<u>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.</u>	413
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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.	416
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To ensure adequate lateral support, no permit application or amendment shall be approved to engage in surface <u>or in-stream</u> 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	419
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unless the owners of the surface and mineral rights in and under 424
the adjacent land or waters consent in writing to surface or 425
in-stream mining closer than fifty feet of horizontal distance. 426
The consent, or a certified copy thereof, shall be attached to the 427
application as a part of the permanent record of the application 428
for a surface or in-stream mining permit. 429

The chief shall issue an order granting a permit upon the 430
chief's approval of an application, as required by this section, 431
filing of the performance bond required by section 1514.04 of the 432
Revised Code, and payment of a permit fee in the amount of ~~two~~ 433
five hundred ~~fifty~~ dollars and an acreage fee in the amount of 434
~~thirty~~ seventy-five dollars multiplied by the number of acres 435
estimated in the application that will comprise the area of land 436
to be affected within the first year of operation under the 437
permit, ~~but which acreage fee shall not exceed one thousand~~ 438
~~dollars per year.~~ 439

The chief may issue an order denying a permit if the chief 440
finds that the applicant, any partner if the applicant is a 441
partnership, any officer or director if the applicant is a 442
corporation, or any other person who has a right to control or in 443
fact controls the management of the applicant or the selection of 444
officers, directors, or managers of the applicant has 445
substantially or materially failed to comply or continues to fail 446
to comply with this chapter, which failure may consist of one or 447
more violations thereof, a rule adopted thereunder, or an order of 448
the chief or failure to perform reclamation as required by this 449
chapter. The chief may deny or revoke the permit of any person who 450
so violates or fails to comply or who purposely misrepresents or 451
omits any material fact in the application for the permit or an 452
amendment to a permit. 453

If the chief denies the permit, the chief shall state the 454
reasons for denial in the order denying the permit. 455

Each permit shall be issued upon condition that the operator 456
will comply with this chapter and perform the measures set forth 457
in the operator's plan of mining and reclamation in a timely 458
manner ~~and upon the right of the~~. The chief, mineral resources 459
inspectors, or other authorized representatives of the chief ~~to~~ 460
may enter upon the premises of the operator at reasonable times 461
for the purposes of determining whether or not there is compliance 462
with this chapter. 463

(C) If the chief approves ~~the~~ an application for a surface 464
mining permit, the order granting the permit shall authorize the 465
person to whom the permit is issued to engage as the operator of a 466
surface mining operation upon the land described in the permit 467
during a period that shall expire ~~ten~~ fifteen years after the date 468
of issuance of the permit, or upon the date when the chief, after 469
inspection, orders the release of any remaining performance bond 470
deposited to assure satisfactory performance of the reclamation 471
measures required pursuant to this chapter, whichever occurs 472
earlier. 473

If the chief approves an application for an in-stream mining 474
permit, the order granting the permit shall authorize the person 475
to whom the permit is issued to engage as the operator of an 476
in-stream mining operation on the land described in the permit 477
during a period that shall expire two years after the date of 478
issuance of the permit, or on the date when the chief, after 479
inspection, orders the release of any remaining bond, cash, 480
irrevocable letters of credit, or certificates of deposit that 481
were deposited to ensure satisfactory performance of the 482
reclamation measures required under this chapter, whichever occurs 483
earlier. 484

(D) Before an operator engages in a surface or in-stream 485
mining operation on land not described in the operator's permit, 486
but that is contiguous to the land described in the operator's 487

permit, the operator shall file with the chief an application for 488
an amendment to the operator's permit. Before approving an 489
amendment, the chief shall require the information, maps, fees, 490
and amount, except as otherwise provided by rule, of the 491
performance bond as required for an original application under 492
this section and shall apply the same prohibitions and 493
restrictions applicable to land described in an original 494
application for a permit. An applicant for a significant amendment 495
to a permit, as "significant" is defined by rule, shall include a 496
copy of the advertisement that the applicant is required to have 497
published in accordance with section 1514.022 of the Revised Code. 498
If the chief disapproves the amendment, the chief shall state the 499
reasons for disapproval in the order disapproving the amendment. 500
Upon the approval of an amendment by the chief, the operator shall 501
be authorized to engage in surface mining on the land or in-stream 502
mining in the watercourse described in the operator's original 503
permit plus the land or area of the watercourse described in the 504
amendment until the date when the permit expires, or when the 505
chief, after inspection, orders the release of any remaining 506
performance bond deposited to assure satisfactory performance of 507
the reclamation measures required pursuant to this chapter, 508
whichever occurs earlier. 509

(E) An operator, at any time and upon application therefor 510
and approval by the chief, may amend the plan of mining and 511
reclamation filed with the application for a permit in order to 512
change the reclamation measures to be performed, modify the 513
interval after mining within which reclamation measures will be 514
performed, change the sequence in which mining or reclamation will 515
occur at specific locations within the area affected, mine acreage 516
previously mined or reclaimed, or for any other purpose, provided 517
that the plan, as amended, includes measures that the chief 518
determines will be adequate to prevent damage to adjoining 519
property and to achieve the performance standards set forth in 520

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~~

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~~permit for the operation, and if the operator elects to appeal the~~ 552
~~order pursuant to section 1513.13 of the Revised Code, until the~~ 553
~~reclamation commission affirms the order of the chief denying the~~ 554
~~permit, and if the operator elects to appeal the order of the~~ 555
~~commission pursuant to section 1513.14 of the Revised Code, until~~ 556
~~the court of common pleas affirms the order~~ The holder of a 557
surface or in-stream mining permit who desires to transfer the 558
rights granted under the permit to another person at any time 559
during the term of the permit or its renewal shall file with the 560
chief an application for the transfer of the permit. The 561
application shall include a copy of the advertisement that the 562
applicant is required to have published in accordance with section 563
1514.022 of the Revised Code. The chief shall issue an order 564
approving or disapproving the transfer of the permit in accordance 565
with criteria and procedures established by rule. 566

Sec. 1514.021. (A) A permit holder who wishes to continue 567
surface or in-stream mining operations after the expiration date 568
of the existing permit or renewal permit shall file with the chief 569
of the division of mineral resources management an application for 570
renewal of a surface or in-stream mining permit or renewal permit 571
at least ninety days before the expiration date of the existing 572
permit or renewal permit. The application shall be upon the form 573
that the chief prescribes and provides and shall be accompanied by 574
the a permit fees required under division (B) of section 1514.02 575
of the Revised Code renewal fee in the amount of one thousand 576
dollars. 577

(B) Upon receipt of an application for renewal and the permit 578
renewal fee under division (A) of this section, the chief shall 579
notify the applicant to submit a map that is a composite of the 580
information required to be contained in the most recent annual 581
report map under section 1514.03 of the Revised Code and of all 582
surface or in-stream mining and reclamation activities conducted 583

under the existing permit or renewal permit; the annual report 584
required under section 1514.03 of the Revised Code; in the case of 585
an applicant proposing a significant change to the plan of mining 586
and reclamation, as "significant" is defined by rule, a copy of 587
the advertisement that the applicant is required to have published 588
in accordance with section 1514.022 of the Revised Code; and 589
additional maps, plans, and revised or updated information that 590
the chief determines to be necessary for permit renewal. Within 591
sixty days after receipt of this notification, the applicant shall 592
submit all the required information to the chief. 593

(C)(1) Upon receipt of the information required under 594
division (B) of this section and except as otherwise provided in 595
division (C)(2) of this section, the chief ~~may~~ shall approve the 596
application for renewal and issue an order granting a renewal 597
permit if unless the chief finds that ~~both~~ any of the following 598
apply applies: 599

~~(1)~~(a) The permit holder's operation is not in substantial or 600
material compliance with this chapter, rules adopted and orders 601
issued under it, and the plan of mining and reclamation under the 602
existing permit or renewal permit~~+~~. 603

~~(2)~~(b) The permit holder has not provided evidence that a 604
performance bond filed under section 1514.04 of the Revised Code 605
applicable to lands affected under the existing permit or renewal 606
permit will remain effective until released under section 1514.05 607
of the Revised Code. 608

(c) The permit holder, any partner if the applicant is a 609
partnership, any officer or director if the applicant is a 610
corporation, or any other person who has a right to control or in 611
fact controls the management of the applicant or the selection of 612
officers, directors, or managers of the applicant has failed 613
substantially or materially to comply or continues to fail to 614
comply with this chapter as provided in section 1514.02 of the 615

Revised Code.

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(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.

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(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.

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(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.

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(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

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section 1514.03 of the Revised Code until the later of thirty days 648
after the chief issues an order denying the application for 649
renewal or thirty days after the chief's order is affirmed upon 650
appeal under section 1513.13 or 1513.14 of the Revised Code. An 651
applicant under this division who fails to provide the information 652
required by the chief under division (B) of this section within 653
the prescribed time period shall submit the final map and report 654
required by section 1514.03 of the Revised Code within thirty days 655
after the expiration of that prescribed period. 656

(G) If the chief issues an order denying an application for 657
renewal of a permit or renewal permit after the expiration date of 658
the permit, the permit holder shall cease surface or in-stream 659
mining operations immediately and, within thirty days after the 660
issuance of the order, shall submit the final report and map 661
required under section 1514.03 of the Revised Code. The chief 662
shall state the reasons for denial in the order denying renewal of 663
the application. An applicant may appeal the chief's order denying 664
the renewal under section 1513.13 of the Revised Code and may 665
continue surface or in-stream mining and reclamation operations 666
under the expired permit until the reclamation commission affirms 667
the chief's order under that section and, if the applicant elects 668
to appeal the order of the commission under section 1513.14 of the 669
Revised Code, until the court of appeals affirms the order. 670

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(H) The approval of an application for renewal under this 672
section authorizes the continuation of ~~the~~ an existing surface 673
mining permit or renewal permit for a term of ~~ten~~ fifteen years 674
from the expiration date of the existing permit. 675

The approval of an application for renewal under this section 676
authorizes the continuation of an existing in-stream mining permit 677
or renewal permit for a term of two years from the expiration date 678
of the existing permit. 679

(I) Any renewal permit is subject to all the requirements of 680
this chapter and rules adopted under it. 681

Sec. 1514.022. (A) As used in this section: 682

(1) "Application" means any of the following: 683

(a) An application filed under division (A) of section 684
1514.02 of the Revised Code for an initial permit for a proposed 685
surface or in-stream mining operation; 686

(b) An application filed under division (D) of section 687
1514.02 of the Revised Code for a significant amendment to a 688
permit, as "significant" is defined by rule; 689

(c) An application filed under division (E) of section 690
1514.02 of the Revised Code for a significant amendment to the 691
plan of mining and reclamation that is proposed by the operator, 692
as "significant" is defined by rule; 693

(d) An application filed under division (F) of section 694
1514.02 of the Revised Code for the transfer of an existing permit 695
for a surface or in-stream mining operation; 696

(e) An application filed under section 1514.021 of the 697
Revised Code for the renewal of a permit if the application 698
proposes a significant change to the plan of mining and 699
reclamation, as "significant" is defined by rule. 700

(2) "Applicant" means a person who files an application. 701

(3) "Governmental agency" means each board of county 702
commissioners, each board of township trustees, each legislative 703
authority of a municipal corporation, and the planning 704
commissioners having jurisdiction over all or part of the area of 705
a surface or in-stream mining operation or a proposed surface or 706
in-stream mining operation together with any other federal, state, 707
or local governmental entities that the chief of the division of 708

mineral resources management reasonably believes will be 709
interested in an application. 710

(B)(1) Except as otherwise provided in division (D) of this 711
section, an applicant shall submit to the chief a copy of the 712
applicant's advertisement required to be published under this 713
division of the ownership, precise location, and boundaries of 714
land to be affected by the surface or in-stream mining operation 715
or proposed surface or in-stream mining operation that is the 716
subject of the application. 717

Upon receiving the application and advertisement, the chief 718
shall designate a location at which the application will be 719
available for public inspection and shall assign to the 720
application an application identification number. When the chief 721
determines that the application is substantially complete, the 722
chief shall notify the applicant of the determination. At that 723
time, the applicant shall place the advertisement, together with 724
the application identification number and the notice of the 725
location at which the application will be available for 726
inspection, in a newspaper of general circulation in the locality 727
of the operation or proposed operation at least once a week for 728
four consecutive weeks. 729

(2) Except as otherwise provided in division (D) of this 730
section, upon determining that an application is substantially 731
complete, the chief shall provide written notice to governmental 732
agencies. The notice shall include all of the information required 733
to be published under division (B)(1) of this section together 734
with the date by which any written comments or objections must be 735
received by the chief for consideration in the review of the 736
application. That date shall be the date that is thirty days 737
following the date on which the chief sends the notice to the 738
governmental agencies. 739

If requested by a governmental agency within thirty-five days 740

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.

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(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.

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(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:

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

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(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

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sixty-five days prior to submittal of an application. In such a 773
situation, an applicant shall provide the chief with a copy of the 774
notice, certified by the publisher, that was previously published. 775

Sec. 1514.023. Nothing in this chapter or rules adopted under 776
it shall be construed to prevent any county, township, or 777
municipal corporation from enacting, adopting, or enforcing zoning 778
resolutions or ordinances. However, the chief of the division of 779
mineral resources management shall not enforce such zoning 780
resolutions or ordinances. 781

Sec. 1514.024. A local authority may enter into an agreement 782
with the operator of a surface or in-stream mining operation or of 783
a proposed surface or in-stream mining operation for the 784
improvement of roads under the jurisdiction of that local 785
authority that may be affected by the operation or for other 786
improvements within the jurisdiction of that local authority. 787
However, nothing in this section requires the surface or in-stream 788
mining operator to enter into such an agreement. 789

Sec. 1514.03. Within thirty days after each anniversary date 790
of issuance of a surface or in-stream mining permit, the operator 791
shall file with the chief of the division of mineral resources 792
management an annual report, on a form prescribed and furnished by 793
the chief, that, for the period covered by the report, shall state 794
the amount of and identify the types of minerals and coal, if any 795
coal, produced and shall state the number of acres affected and 796
the number of acres estimated to be affected during the next year 797
of operation. An annual report is not required to be filed if a 798
final report is filed in lieu thereof. 799

Each annual report for a surface mining operation shall 800
include a progress map indicating the location of areas of land 801
affected during the period of the report and the location of the 802

area of land estimated to be affected during the next year. The 803
map shall be prepared in accordance with division (A)~~(10)~~(11) or 804
~~(11)~~(12) of section 1514.02 of the Revised Code, as appropriate, 805
except that a map prepared in accordance with division (A)~~(11)~~(12) 806
of that section may be certified by the operator or authorized 807
agent of the operator in lieu of certification by a professional 808
engineer or surveyor registered under Chapter 4733. of the Revised 809
Code. However, the chief may require that an annual progress map 810
or a final map be prepared by a registered professional engineer 811
or registered surveyor if the chief has reason to believe that the 812
operator exceeded the boundaries of the permit area or, if the 813
operator filed the map required under division (A)~~(10)~~(11) of 814
section 1514.02 of the Revised Code, that the operator extracted 815
ten thousand tons or more of minerals during the period covered by 816
the report. 817

Each annual report for an in-stream mining operation shall 818
include a statement of the total tonnage removed by in-stream 819
mining for each month and of the surface acreage and depth of 820
material removed by in-stream mining and shall include a map that 821
identifies the area affected by the in-stream mining, soundings 822
that depict the cross-sectional views of the channel bottom of the 823
watercourse, and water elevations for the watercourse. 824

Each annual report shall be accompanied by a filing fee in 825
the amount of ~~two~~ five hundred ~~fifty~~ dollars and, except in the 826
case of an annual report filed by a small operator or an in-stream 827
mining operator. A small operator, which is a surface mine 828
operator who intends to extract fewer than ten thousand tons of 829
minerals and no coal during the next year of operation under the 830
permit, or an in-stream mining operator shall include a filing fee 831
in the amount of two hundred fifty dollars with each annual 832
report. The annual report of any operator also shall be 833
accompanied by an acreage fee in the amount of ~~thirty~~ seventy-five 834

dollars multiplied by the number of acres estimated in the report 835
to be affected during the next year of operation under the permit. 836
The acreage fee shall be adjusted by subtracting a credit of 837
~~thirty seventy-five~~ dollars per excess acre paid for the preceding 838
year if the acreage paid for the preceding year exceeds the 839
acreage actually affected or by adding an additional amount of 840
~~thirty seventy-five~~ dollars per excess acre affected if the 841
acreage actually affected exceeds the acreage paid for the 842
preceding year. 843

With each annual report the operator shall file a performance 844
bond in the amount, unless otherwise provided by rule, of ~~five~~ 845
~~hundred one thousand~~ dollars multiplied by the number of acres 846
estimated to be affected during the next year of operation under 847
the permit for which no performance bond previously was filed. ~~The~~ 848
Unless otherwise provided by rule, the bond shall be adjusted by 849
subtracting a credit of ~~five hundred one thousand~~ dollars per 850
excess acre for which bond was filed for the preceding year if the 851
acreage for which the bond was filed for the preceding year 852
exceeds the acreage actually affected, or by adding an amount of 853
~~five hundred one thousand~~ dollars per excess acre affected if the 854
acreage actually affected exceeds the acreage for which bond was 855
filed for the preceding year. 856

Within thirty days after the expiration of the surface or 857
in-stream mining permit, or completion or abandonment of the 858
operation, whichever occurs earlier, the operator shall submit a 859
final report containing the same information required in an annual 860
report, but covering the time from the last annual report to the 861
expiration of the permit, or completion or abandonment of the 862
operation, whichever occurs earlier. 863

Each final report shall include a map indicating the location 864
of the area of land affected during the period of the report and 865
the location of the total area of land affected under the permit. 866

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.

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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.

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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.

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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.

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The fees collected pursuant to this section and section 1514.02 of the Revised Code shall be deposited with the treasurer

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of state to the credit of the surface mining fund created under
section 1514.06 of the Revised Code.

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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.

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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.

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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.

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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

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in-stream mining permit for the entire permit period. In the case 930
of an amendment to an in-stream mining permit, the bond shall be 931
filed for the number of any additional acres of land to be 932
affected within the limits of the in-stream mining permit. 933

A surety bond filed pursuant to this section and sections 934
1514.02 and 1514.03 of the Revised Code shall be upon the form 935
that the chief prescribes and provides and shall be signed by the 936
operator as principal and by a surety company authorized to 937
transact business in the state as surety. The bond shall be 938
payable to the state and shall be conditioned upon the faithful 939
performance by the operator of all things to be done and performed 940
by the operator as provided in this chapter and the rules and 941
orders of the chief adopted or issued pursuant thereto. 942

The operator may deposit with the chief, in lieu of a surety 943
bond, cash in an amount equal to the surety bond as prescribed in 944
this section, an irrevocable letter of credit or negotiable 945
certificates of deposit issued by any bank organized or 946
transacting business in this state, or an irrevocable letter of 947
credit or certificates of deposit issued by any savings and loan 948
association as defined in section 1151.01 of the Revised Code, 949
having a cash value equal to or greater than the amount of the 950
surety bond as prescribed in this section. Cash or certificates of 951
deposit shall be deposited upon the same terms as the terms upon 952
which surety bonds may be deposited. If one or more certificates 953
of deposit are deposited with the chief in lieu of a surety bond, 954
the chief shall require the bank or savings and loan association 955
that issued any such certificate to pledge securities of a cash 956
value equal to the amount of the certificate, or certificates, 957
that is in excess of the amount insured by the federal deposit 958
insurance corporation. The securities shall be security for the 959
repayment of the certificate of deposit. 960

Immediately upon a deposit of cash, a letter of credit, or 961

certificates with the chief, the chief shall deliver it to the 962
treasurer of state who shall hold it in trust for the purposes for 963
which it has been deposited. The treasurer of state shall be 964
responsible for the safekeeping of such deposits. An operator 965
making a deposit of cash, a letter of credit, or certificates of 966
deposit may withdraw and receive from the treasurer of state, on 967
the written order of the chief, all or any part of the cash, 968
letter of credit, or certificates in the possession of the 969
treasurer of state, upon depositing with the treasurer of state 970
cash, an irrevocable letter of credit, or negotiable certificates 971
of deposit issued by any bank organized or transacting business in 972
this state, or an irrevocable letter of credit or certificates of 973
deposit issued by any savings and loan association, equal in value 974
to the value of the cash, letter of credit, or certificates 975
withdrawn. An operator may demand and receive from the treasurer 976
of state all interest or other income from any certificates as it 977
becomes due. If certificates deposited with and in the possession 978
of the treasurer of state mature or are called for payment by the 979
issuer thereof, the treasurer of state, at the request of the 980
operator who deposited them, shall convert the proceeds of the 981
redemption or payment of the certificates into such other 982
negotiable certificates of deposit issued by any bank organized or 983
transacting business in this state, such other certificates of 984
deposit issued by any savings and loan association, or cash, as 985
may be designated by the operator. 986

A governmental agency, as defined in division (A) of section 987
1514.022 of the Revised Code, or a board or commission that 988
derives its authority from a governmental agency shall not require 989
a surface or in-stream mining operator to file a surety bond or 990
any other form of financial assurance for the reclamation of land 991
to be affected by a surface or in-stream mining operation 992
authorized under this chapter. 993

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. The 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. 1024

(B) The chief shall make an inspection and evaluation of the 1025
reclamation of the area of land for which ~~the a~~ request was 1026
submitted within ninety days after receipt of the request or, if 1027
the operator fails to complete the reclamation or file the request 1028
as required, as soon as the chief learns of the default. 1029
Thereupon, if the chief approves the first phase of the 1030
reclamation ~~other than any required planting~~ as meeting the 1031
requirements of this chapter, rules adopted thereunder, any orders 1032
issued during the mining or reclamation, and the specifications of 1033
the plan for mining and reclaiming, the chief shall issue an order 1034
to the operator and the operator's surety releasing them from 1035
liability for ~~one-half the total amount~~ the applicable percentage 1036
specified in this division of their surety bond on deposit to 1037
ensure reclamation for the area upon which reclamation is 1038
completed. If the chief approves the second phase of the 1039
reclamation and decides to release any remaining performance bond 1040
on deposit to ensure reclamation of the area upon which 1041
reclamation is completed, the chief shall order release of the 1042
remaining performance bond, after completing the inspection and 1043
evaluation, in the same manner as in the case of approval of the 1044
first phase of reclamation, and the treasurer of state shall 1045
proceed as in that case. 1046

On approval of the first phase of reclamation, the chief 1047
shall release seventy-five per cent of the amount of the surety 1048
bond on deposit. On approval of the second phase of reclamation, 1049
the chief shall release the remaining amount of the surety bond 1050
that originally was on deposit. 1051

If the operator has deposited cash, an irrevocable letter of 1052
credit, or certificates of deposit in lieu of a surety bond to 1053
ensure reclamation, the chief shall issue an order to the operator 1054
releasing ~~one-half of the total~~ amount so held in the same manner 1055

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 1119
inspection or of the date when the chief learns of the default. 1120
The notice shall be an order stating the reasons for 1121
unacceptability, ordering further actions to be taken, and setting 1122
a time limit for compliance. If the operator does not comply with 1123
the order within the time limit specified, the chief may order an 1124
extension of time for compliance after determining that the 1125
operator's noncompliance is for good cause, resulting from 1126
developments partially or wholly beyond the operator's control. If 1127
the operator complies within the time limit or the extension of 1128
time granted for compliance, the chief shall order release of the 1129
remaining performance bond in the same manner as in the case of 1130
approval of reclamation by the chief, and the treasurer of state 1131
shall proceed as in that case. If the operator does not comply 1132
within the time limit and the chief does not order an extension, 1133
or if the chief orders an extension of time and the operator does 1134
not comply within the extension of time granted for compliance, 1135
the chief shall make another order declaring that the operator has 1136
failed to reclaim and, if the operator's permit has not already 1137
expired or been revoked, revoking the operator's permit. The chief 1138
then shall proceed under division (C) of this section. 1139

~~(C)(D)~~ Upon issuing an order under division ~~(A)~~ or ~~(B)~~(C) of 1140
this section declaring that the operator has failed to reclaim, 1141
the chief shall ~~make a finding as to the number and location of~~ 1142
~~the acres of land that the operator has failed to reclaim in the~~ 1143
~~manner required by this chapter. The chief shall order the release~~ 1144
~~of the performance bond in the amount of five hundred dollars per~~ 1145
~~acre for those acres that the chief finds to have been reclaimed~~ 1146
~~in the manner required by this chapter. The release shall be~~ 1147
~~ordered in the same manner as in the case of other approval of~~ 1148
~~reclamation by the chief, and the treasurer of state shall proceed~~ 1149
~~as in that case. If the operator has on deposit cash, an~~ 1150

~~irrevocable letter of credit, or certificates of deposit to ensure~~ 1151
~~reclamation of the area of the land affected, the retain all or~~ 1152
~~part of the performance bond on deposit for reclamation of the~~ 1153
~~affected surface or in-stream mine site. The chief at the same~~ 1154
time shall issue an order declaring that the remaining cash, 1155
irrevocable letter of credit, or certificates of deposit ~~is, if~~ 1156
~~any, are the property of the state and ~~is~~ are available for use by~~ 1157
the chief in performing reclamation of the area and shall proceed 1158
in accordance with section 1514.06 of the Revised Code. 1159

If the operator has on deposit a surety bond to ensure 1160
reclamation of the area of land affected, the chief shall notify 1161
the surety in writing of the operator's default and shall request 1162
the surety to perform the surety's obligation and that of the 1163
operator. The surety, within ten days after receipt of the notice, 1164
shall notify the chief as to whether it intends to perform those 1165
obligations. 1166

If the surety chooses to perform, it shall arrange for work 1167
to begin within thirty days of the day on which it notifies the 1168
chief of its decision. If the surety completes the work as 1169
required by this chapter, the chief shall issue an order to the 1170
surety releasing the surety from liability under the bond in the 1171
same manner as if the surety were an operator proceeding under 1172
this section. If, after the surety begins the work, the chief 1173
determines that the surety is not carrying the work forward with 1174
reasonable progress, or that it is improperly performing the work, 1175
or that it has abandoned the work or otherwise failed to perform 1176
its obligation and that of the operator, the chief shall issue an 1177
order terminating the right of the surety to perform the work and 1178
demanding payment of the amount due as required by this chapter. 1179

If the surety chooses not to perform and so notifies the 1180
chief, does not respond to the chief's notice within ten days of 1181
receipt thereof, or fails to begin work within thirty days of the 1182

day it timely notifies the chief of its decision to perform its 1183
obligation and that of the operator, the chief shall issue an 1184
order terminating the right of the surety to perform the work and 1185
demanding payment of the amount due, as required by this chapter. 1186

Upon receipt of an order of the chief demanding payment of 1187
the amount due, the surety immediately shall deposit with the 1188
chief cash in the full amount due under the order for deposit with 1189
the treasurer of state. If the surety fails to make an immediate 1190
deposit, the chief shall certify it to the attorney general for 1191
collection. When the chief has issued an order terminating the 1192
right of the surety and has the cash on deposit, the cash is the 1193
property of the state and is available for use by the chief, who 1194
shall proceed in accordance with section 1514.06 of the Revised 1195
Code. 1196

Sec. 1514.06. (A) There is hereby created in the state 1197
treasury the surface mining fund. All cash that becomes the 1198
property of the state pursuant to section 1514.05 of the Revised 1199
Code shall be deposited in the fund, and expenditures from the 1200
fund shall be made by the chief of the division of mineral 1201
resources management only for the purpose of reclaiming areas of 1202
land affected by surface or in-stream mining operations on which 1203
an operator has defaulted. 1204

(B) Expenditures of moneys from the fund, except as otherwise 1205
provided by this section, shall be made pursuant to contracts 1206
entered into by the chief with persons who agree to furnish all of 1207
the materials, equipment, work, and labor, as specified and 1208
provided in the contracts, for the prices stipulated therein. With 1209
the approval of the director of natural resources, the chief may 1210
reclaim the land in the same manner as the chief required of the 1211
operator who defaulted. Each contract awarded by the chief shall 1212
be awarded to the lowest responsive and responsible bidder, in 1213

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.

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(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.

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(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.

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(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,

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agreement, or prior custom or practice, or the average wage rate 1246
paid in this state for the same or similar work, as determined by 1247
the chief under section 1513.02 of the Revised Code. 1248

(F) Each contract entered into by the chief under this 1249
section shall provide only for the reclamation of land affected by 1250
the surface or in-stream mining operation or operations of one 1251
operator and not reclaimed by the operator as required by this 1252
chapter. If there is money in the fund derived from the 1253
performance bond deposited with the chief by one operator to 1254
ensure the reclamation of two or more areas of land affected by 1255
the surface or in-stream mining operation or operations of one 1256
operator and not reclaimed by the operator as required by this 1257
chapter, the chief may award a single contract for the reclamation 1258
of all such areas of land. 1259

(G) The cost of the reclamation work done under this section 1260
on each area of land affected by surface or in-stream mining 1261
operations on which an operator has defaulted shall be paid out of 1262
the money in the fund derived from the performance bond that was 1263
deposited with the chief to ensure the reclamation of that area of 1264
land. If the amount of money is not sufficient to pay the cost of 1265
doing all of the reclamation work on the area of land that the 1266
operator should have done, but failed to do, the chief may expend 1267
from the reclamation forfeiture fund created in section 1513.18 of 1268
the Revised Code or the surface mining fund created in this 1269
section the amount of money needed to complete reclamation to the 1270
standards required by this chapter. The operator is liable for 1271
that expense in addition to any other liabilities imposed by law. 1272
At the request of the chief, the attorney general shall bring an 1273
action against the operator for the amount of the expenditures 1274
from either fund. Moneys so recovered shall be deposited in the 1275
appropriate fund from which the expenditures were made. 1276

(H) If any part of the money in the surface mining fund 1277

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
repermitted 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 1310
operator's permit. 1311

Sec. 1514.071. (A) In addition to any other penalties 1312
established under this chapter, the chief of the division of 1313
mineral resources management may assess a civil penalty against 1314
any person who fails to comply with an order issued by the chief 1315
under section 1514.07 of the Revised Code by the date specified in 1316
the order or as subsequently extended by the chief. 1317

(B) Civil penalties assessed under this section shall not 1318
exceed one thousand dollars for each occurrence of noncompliance 1319
with an order. Each day of continuing noncompliance, up to a 1320
maximum of thirty days, may be deemed a separate occurrence for 1321
purposes of penalty assessments. In determining the amount of the 1322
assessment, the chief shall consider the seriousness of the 1323
noncompliance, the effect of the noncompliance, and the operator's 1324
history of noncompliance. 1325

(C) Upon issuance of a notice of noncompliance with an order, 1326
the chief shall inform the person to whom the notice of 1327
noncompliance is issued of the amount of any civil penalty to be 1328
assessed and provide an opportunity for an adjudicatory hearing 1329
with the reclamation commission pursuant to section 1514.09 of the 1330
Revised Code. The person charged with the penalty shall have 1331
thirty days from receipt of the assessment to pay the penalty in 1332
full or, if the person wishes to contest the amount of the 1333
penalty, file a petition for review of the assessment with the 1334
commission pursuant to section 1514.09 of the Revised Code and 1335
forward the amount of the penalty to the secretary of the 1336
commission as required by this division. Failure to forward the 1337
money to the secretary within thirty days after the chief informs 1338
the person of the amount of the penalty shall result in a waiver 1339
of all legal rights to contest the amount of the penalty. 1340

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 1372
which the noncompliance is occurring or has occurred. The court 1373
shall grant the relief requested upon a demonstration that 1374
noncompliance with an order of the chief is occurring or has 1375
occurred. 1376

Sec. 1514.08. (A) The chief of the division of mineral 1377
resources management may adopt, amend, and rescind rules in 1378
accordance with Chapter 119. of the Revised Code in order to 1379
prescribe procedures for submitting applications for permits, 1380
amendments to permits, and amendments to plans of mining and 1381
reclamation; filing annual reports and final reports; requesting 1382
inspection and approval of reclamation; paying permit and filing 1383
fees; and filing and obtaining the release of performance bonds 1384
deposited with the state. For the purpose of preventing damage to 1385
adjoining property or achieving one or more of the performance 1386
standards established in division (A)~~(9)~~(10) of section 1514.02 of 1387
the Revised Code, the chief may establish classes of mining 1388
industries, based upon industrial categories, combinations of 1389
minerals produced, and geological conditions in which surface or 1390
in-stream mining operations occur, and may prescribe different 1391
rules consistent with the performance standards for each class. 1392
For the purpose of apportioning the workload of the division of 1393
mineral resources management among the quarters of the year, the 1394
rules may require that applications for permits and annual reports 1395
be filed in different quarters of the year, depending upon the 1396
county in which the operation is located. 1397

(B) The chief shall adopt rules under this section that do 1398
all of the following: 1399

(1) With respect to in-stream mining, determine periods of 1400
low flow, which are the only time periods during which in-stream 1401
mining is allowed, and develop and implement any criteria, in 1402

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; 1403
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(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; 1406
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(3) Define when any of the following may be considered to be "significant" for purposes of section 1514.022 of the Revised Code: 1409
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(a) An amendment to a permit issued under section 1514.02 of the Revised Code for a surface or in-stream mining operation; 1412
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(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; 1414
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(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. 1417
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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. 1420
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(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 1423
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operation that has been issued in this state to the operator or 1434
applicant. 1435

(5) Establish criteria and procedures for granting a variance 1436
from compliance with the prohibitions established in divisions 1437
(E)(3) and (F)(3) of section 1514.10 of the Revised Code. The 1438
criteria shall ensure that an operator may obtain a variance only 1439
if compliance with the applicable prohibition is not necessary to 1440
prevent damage to the watercourse or surrounding areas. 1441

Sec. 1514.09. The reclamation commission established pursuant 1442
to section 1513.05 of the Revised Code shall serve as the 1443
reclamation commission pursuant to this chapter. However, whenever 1444
the commission is considering any appeal pertaining to surface or 1445
in-stream mining, as distinguished from coal strip mining, the 1446
member representing the coal strip mine operators shall be 1447
replaced by a person who, by reason of the person's previous 1448
vocation, employment, or affiliations, can be classed as a 1449
representative of surface or in-stream mine operators, as 1450
applicable. The appointment of ~~said~~ that person shall be made in 1451
accordance with section 1513.05 of the Revised Code, and the 1452
person's term shall be concurrent with that of the representative 1453
of the coal strip mine operators. 1454

No party to an appeal brought under this section shall be 1455
eligible for an award of attorney's fees, costs, or expenses from 1456
the commission or any court. 1457

Notwithstanding section 1513.14 of the Revised Code, appeals 1458
from an order of the commission pertaining to surface or in-stream 1459
mining may be taken to the court of common pleas of the county in 1460
which the operation is located, or to the court of common pleas of 1461
Franklin county. 1462

Sec. 1514.10. No person shall: 1463

(A)(1) Engage in surface mining without a permit; 1464

(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. 1465
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(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; 1474
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(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; 1478
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(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; 1483
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(E) Conduct surface excavations of minerals within any of the following: 1489
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(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 1491
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as a component of the national wild and scenic river system under 1495
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1496
1274, as amended; 1497

(2) Seventy-five feet horizontal distance outward from the 1498
highwater mark on each bank of a watercourse that drains a surface 1499
area of more than one hundred square miles; 1500

(3) Fifty feet horizontal distance outward from the highwater 1501
mark on each bank of a watercourse that drains a surface area of 1502
more than twenty-five square miles, but fewer than one hundred 1503
square miles unless a variance is obtained under rules adopted by 1504
the chief. 1505

(F) Conduct any surface mining activity within any of the 1506
following: 1507

(1) Seventy-five feet horizontal distance outward from the 1508
highwater mark on each bank of an area designated as a wild, 1509
scenic, or recreational river area under sections 1517.14 to 1510
1517.18 of the Revised Code or of a portion of a river designated 1511
as a component of the national wild and scenic river system under 1512
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1513
1274, as amended; 1514

(2) Seventy-five feet horizontal distance outward from the 1515
highwater mark on each bank of a watercourse that drains a surface 1516
area of more than one hundred square miles; 1517

(3) Fifty feet horizontal distance outward from the highwater 1518
mark on each bank of a watercourse that drains a surface area of 1519
more than twenty-five square miles, but fewer than one hundred 1520
square miles unless a variance is obtained under rules adopted by 1521
the chief. 1522

A person who has been issued a surface mining permit prior to 1523
the effective date of this amendment may continue to operate under 1524
that permit and shall not be subject to the prohibitions 1525

established in divisions (E) and (F) of this section until the 1526
permit is renewed. 1527

The number of square miles of surface area that a watercourse 1528
drains shall be determined by consulting the "gazetteer of Ohio 1529
streams," which is a portion of the Ohio water plan inventory 1530
published in 1960 by the division of water in the department of 1531
natural resources, or its successor, if any. 1532

(G) Engage in any part of a process that is followed in the 1533
production of minerals from the bottom of the channel of a 1534
watercourse in any of the following circumstances or areas: 1535

(1) In an area designated as a wild, scenic, or recreational 1536
river area under sections 1517.14 to 1517.18 of the Revised Code, 1537
in a portion of a river designated as a component of the national 1538
wild and scenic river system under the "Wild and Scenic Rivers 1539
Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within 1540
one-half mile upstream of any portion of such an area or 1541
component; 1542

(2) During periods other than periods of low flow, as 1543
determined by rules adopted under section 1514.08 of the Revised 1544
Code; 1545

(3) During critical fish spawning seasons as determined by 1546
the chief of the division of wildlife under Chapter 1531. of the 1547
Revised Code and rules adopted under it; 1548

(4) In an area known to possess critical spawning habitat for 1549
a species of fish that is on the federal endangered species list 1550
established in accordance with the "Endangered Species Act of 1551
1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended, or the state 1552
endangered species list established in rules adopted under section 1553
1531.25 of the Revised Code. 1554

Division (G) of this section does not apply to the activities 1555
described in divisions (M)(1) and (2) of section 1514.01 of the 1556

Revised Code.

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Sec. 1514.11. In addition to the purposes authorized in 1558
section 1514.06 of the Revised Code, the chief of the division of 1559
mineral resources management may use moneys in the surface mining 1560
fund created under that section for the administration and 1561
enforcement of this chapter, for the reclamation of land affected 1562
by surface or in-stream mining under a permit issued under this 1563
chapter that the operator failed to reclaim and for which the 1564
performance bond filed by the operator is insufficient to complete 1565
the reclamation, and for the reclamation of land affected by 1566
surface or in-stream mining that was abandoned and left 1567
unreclaimed and for which no permit was issued or bond filed under 1568
this chapter. For purposes of this section, the chief shall expend 1569
moneys in the fund in accordance with the procedures and 1570
requirements established in section 1514.06 of the Revised Code 1571
and may enter into contracts and perform work in accordance with 1572
that section. 1573

Fees collected under sections 1514.02 and 1514.03 of the 1574
Revised Code, one-half of the moneys collected from the severance 1575
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 1576
the Revised Code, and all of the moneys collected from the 1577
severance tax levied under division (A)(7) of section 5749.02 of 1578
the Revised Code shall be credited to the fund in accordance with 1579
those sections. Notwithstanding any section of the Revised Code 1580
relating to the distribution or crediting of fines for violations 1581
of the Revised Code, all fines imposed under section 1514.99 of 1582
the Revised Code shall be credited to the fund. 1583

Sec. 1514.12. (A) Explosives shall be used in a manner that 1584
prevents injury to persons and damage to public or private 1585
property that is located outside the area for which a permit was 1586
issued under section 1514.02 or 1514.021 of the Revised Code. 1587

(B) The ground vibration resulting from the use of explosives 1588
when measured at any dwelling, public or commercial building, 1589
school, church, or community or institutional building that is 1590
located outside the area for which a permit was issued under 1591
section 1514.02 or 1514.021 of the Revised Code and that is not 1592
owned by the operator shall not exceed the frequency-dependent 1593
particle velocity limits listed in the "report of investigations 1594
8507, appendix B -- alternative blasting level criteria, (1980)," 1595
published by the former United States bureau of mines, or other 1596
limits established by rule. 1597

(C) The airblast resulting from the use of explosives when 1598
measured with a two hertz high-pass system at any location listed 1599
in division (B) of this section shall not exceed a level of one 1600
hundred thirty-three decibels. 1601

(D) On and after July 1, 2003, all blasting in surface mining 1602
shall be conducted by persons who are trained and competent in 1603
blasting as certified by the chief of the division of mineral 1604
resources management or a certifying authority approved by the 1605
chief. 1606

(E) The chief shall adopt, and may amend and rescind, rules 1607
in accordance with Chapter 119. of the Revised Code establishing 1608
requirements and standards governing all of the following: 1609

(1) Seismographic monitoring and alternate methods to prove 1610
compliance with the ground vibration limits established under 1611
division (B) of this section and the airblast limits established 1612
under division (C) of this section; 1613

(2) Protection of any building or structure not listed in 1614
division (B) of this section; 1615

(3) Training, examination, and certification of persons 1616
conducting blasting in surface mining and suspension or revocation 1617
of certifications; 1618

(4) Standard blast warning and all-clear signals; 1619

(5) Blasting records and flyrock reporting requirements; 1620

(6) Safety measures for blasting in surface mining. 1621

(F) The chief may adopt rules under this section that 1622
establish limits on the amount of ground vibration resulting from 1623
the use of explosives that is permissible when measured at the 1624
locations described in division (B) of this section. 1625

Sec. 1514.13. (A) The chief of the division of mineral 1626
resources management shall use the compilation of data for ground 1627
water modeling submitted under section 1514.02 of the Revised Code 1628
to establish a projected cone of depression for any surface mining 1629
operation that may result in dewatering. An applicant for a 1630
surface mining permit for such an operation may submit ground 1631
water modeling that shows a projected cone of depression for that 1632
operation to the chief, provided that the modeling complies with 1633
rules adopted by the chief regarding ground water modeling. 1634
However, the chief shall establish the projected cone of 1635
depression for the purposes of this section. 1636

The chief shall adopt, and may amend and rescind, rules in 1637
accordance with Chapter 119. of the Revised Code establishing 1638
requirements and standards governing both of the following: 1639

(1) Ground water modeling for establishing a projected cone 1640
of depression. A ground water model shall be generally accepted in 1641
the scientific community. 1642

(2) Replacement of water supplies. 1643

(B)(1) If an owner of real property who obtains all or part 1644
of the owner's water supply for domestic, agricultural, 1645
industrial, or other legitimate use from ground water has a 1646
diminution, contamination, or interruption of that water supply 1647
and the owner's real property is located within the projected cone 1648

of depression of a surface mining operation established under this 1649
section, the owner may submit a written complaint to the operator 1650
of that operation informing the operator that there is a 1651
diminution, contamination, or interruption of the owner's water 1652
supply. The complaint shall include the owner's name, address, and 1653
telephone number. 1654

The operator immediately shall send to the chief a copy of 1655
the complaint and include a statement that explains how the 1656
operator resolved or will resolve the complaint. Not later than 1657
seventy-two hours after receipt of the complaint, the operator 1658
shall provide the owner a supply of water that is comparable, in 1659
quantity and quality, to the owner's water supply prior to the 1660
diminution, contamination, or interruption of the owner's water 1661
supply. The operator shall maintain that water supply until the 1662
operator provides a permanent replacement water supply to the 1663
owner under division (B)(3) of this section or until the division 1664
of mineral resources management completes the evaluation under 1665
division (B)(2) of this section, whichever is applicable. 1666

(2) A rebuttable presumption exists that the operation caused 1667
the diminution, contamination, or interruption of the owner's 1668
water supply. However, not later than fourteen days after receipt 1669
of the complaint, the operator may submit to the division 1670
information showing that the operation is not the proximate cause 1671
of the diminution, contamination, or interruption of the owner's 1672
water supply. The division shall evaluate the information 1673
submitted by the operator to determine if the presumption is 1674
rebutted. If the operator fails to rebut the presumption, the 1675
division immediately shall notify the operator that the operator 1676
failed to rebut the presumption. Not later than fourteen days 1677
after receipt of that notice, the operator shall provide the owner 1678
a permanent replacement water supply that is comparable, in 1679
quantity and quality, to the owner's water supply prior to the 1680

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. 1681
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(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. 1687
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(4) The division may investigate a complaint under division (B) of this section. 1696
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(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. 1698
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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 1709
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investigate any complaint submitted under this division and, upon 1713
completion of the investigation, immediately shall send the 1714
results of the investigation to the operator and to the owner that 1715
filed the complaint. 1716

An owner that submits a written complaint under this division 1717
may resolve the diminution, contamination, or interruption of the 1718
owner's water supply with the operator of that operation or may 1719
commence a civil action for that purpose. 1720

(D) An operator may request the chief to amend the plan of 1721
mining and reclamation filed with the application under section 1722
1514.02 of the Revised Code when a ground water user may affect 1723
the projected cone of depression established for the operation 1724
under division (A) of this section. The operator shall submit 1725
additional data that reflect the ground water user's impact on the 1726
ground water. The chief shall perform ground water modeling using 1727
the additional data and may establish a revised projected cone of 1728
depression for that operation. 1729

(E) This section shall not be construed as creating, 1730
modifying, or affecting any right, liability, or remedy of surface 1731
riparian owners. 1732

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 1733
section 1514.10 of the Revised Code may be fined not more than 1734
five thousand dollars plus not more than one thousand dollars per 1735
acre of land affected, and is responsible for achieving 1736
reclamation of the land as required pursuant to ~~Chapter 1514. of~~ 1737
~~the Revised Code~~ this chapter. 1738

(B) Whoever violates division (B) of section 1514.10 of the 1739
Revised Code may be fined not more than one thousand dollars per 1740
acre of land affected that is not under permit, and is responsible 1741
for achieving reclamation of the land as required pursuant to 1742
~~Chapter 1514. of the Revised Code~~ this chapter. 1743

(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 conviction, and ~~such~~ the court at ~~such~~ that time may further order that no permit or amendment to a permit may be issued to ~~such~~ that person under ~~Chapter 1514. of the Revised Code~~ this chapter for a period of five years from the date of ~~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.

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, and 1514.99 of the Revised Code are hereby repealed.

Section 3. The repeal of the performance standard in division (A)(10)(b) of section 1514.02 of the Revised Code, as amended by this act, shall apply to all applications for a surface or in-stream mining permit, including applications for an initial surface or in-stream mining permit or a renewal permit, or for an amendment to a permit or to the mining and reclamation plan pertaining to an existing permit, that are filed with the Division of Mineral Resources Management on and after the effective date of

this act, but shall not apply to applications that were filed 1775
prior to the effective date of this act. 1776