

**As Reported by the House Agriculture and Natural Resources
Committee**

**124th General Assembly
Regular Session
2001-2002**

Sub. S. B. No. 83

SENATORS Carnes, Robert Gardner, Mumper

A B I L L

To amend sections 1514.01, 1514.02, 1514.021, 1514.03 1
to 1514.11, 1514.99, and 1561.12 and to enact 2
sections 1514.022, 1514.023, 1514.024, 1514.071, 3
1514.072, 1514.12, and 1514.13 of the Revised Code 4
to revise the statutes governing the surface and 5
in-stream 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, 1514.99, and 1561.12 be amended and sections 1514.022, 9
1514.023, 1514.024, 1514.071, 1514.072, 1514.12, and 1514.13 of 10
the Revised 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

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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; routine dredging of a watercourse for purely 38
navigational or flood control purposes during which materials are 39
removed for noncommercial purposes; or the extraction or movement 40
of soil or minerals within a solid waste facility, as defined in 41
section 3734.01 of the Revised Code, that is a sanitary landfill 42
when the soil or minerals are used exclusively for the 43
construction, operation, closure, and post-closure care of the 44
facility or for maintenance activities at the facility. 45

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 46
halite, limestone, dolomite, sandstone, other stone, metalliferous 47
or nonmetalliferous ore, or other material or substance of 48
commercial value excavated in a solid state from natural deposits 49
on or in the earth, but does not include coal or peat. 50

(C) "Overburden" means all of the earth and other materials 51

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

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

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

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

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

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

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

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(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. 83
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(J) "Ground water" means all water occurring in an aquifer. 87

(K) "Cone of depression" means a depression or low point in the water table or potentiometric surface of a body of ground water that develops around a location from which ground water is being withdrawn. 88
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(L) "High water mark" means the line on the shore that is established by the fluctuations of water and indicated by physical characteristics such as a natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding area. 92
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(M) "In-stream mining" means all or any part of a process followed in the production of minerals from the bottom of the channel of a watercourse that drains a surface area of more than one hundred square miles. "In-stream mining" may be accomplished by using any technique or by using surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits. "In-stream mining" does not include either of the following: 99
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(1) Routine dredging for purely navigational or flood control purposes during which materials are removed for noncommercial purposes; 108
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(2) The extraction of minerals, other than coal, by a landowner for the landowner's own noncommercial use when the material is extracted and used in an unprocessed form on the same 111
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tract of land. 114

For purposes of division (M) of this section, the number of 115
square miles of surface area that a watercourse drains shall be 116
determined by consulting the "gazetteer of Ohio streams," which is 117
a portion of the Ohio water plan inventory published in 1960 by 118
the division of water in the department of natural resources, or 119
its successor, if any. 120

(N) In provisions concerning in-stream mining, when the 121
context is appropriate, "land" is deemed to include an area of a 122
watercourse. 123

(O) "Watercourse" means any naturally occurring perennial or 124
intermittent stream, river, or creek flowing within a defined 125
stream bed and banks. 126

Sec. 1514.02. (A) After the dates the chief of the division 127
of mineral resources management prescribes by rule pursuant to 128
section 1514.08 of the Revised Code, but not later than July 1, 129
1977, nor earlier than July 1, 1975, no operator shall engage in 130
surface mining or conduct a surface mining operation without a 131
surface mining permit issued by the chief. 132

No person shall engage in in-stream mining or conduct an 133
in-stream mining operation without an in-stream mining permit 134
issued by the chief. However, a person who, on the effective date 135
of this amendment, holds a valid permit to conduct in-stream 136
mining that is issued under section 10 of the "Rivers and Harbors 137
Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as 138
amended, shall not be required to obtain an in-stream mining 139
permit from the chief under this section until the existing permit 140
expires. 141

An application for a surface or in-stream mining permit shall 142
be upon the form that the chief prescribes and provides and shall 143

contain all of the following: 144

(1) The name and address of the applicant, of all partners if 145
the applicant is a partnership, or of all officers and directors 146
if the applicant is a corporation, and any other person who has a 147
right to control or in fact controls the management of the 148
applicant or the selection of officers, directors, or managers of 149
the applicant; 150

(2) A list of the minerals and coal, if any coal, sought to 151
be extracted, an estimate of the annual production rates for each 152
mineral and coal, and a description of the land upon which the 153
applicant proposes to engage in a surface or in-stream mining 154
operation, which description shall set forth the name names of the 155
counties, townships, and municipal corporations, if any, in which 156
the land is located; the location of its boundaries; and a 157
description of the land of sufficient certainty that it may be 158
located and distinguished from other lands; 159

(3) The name of each county, township, or municipal 160
corporation, if any, that has in effect a zoning resolution or 161
ordinance that would affect the proposed surface or in-stream 162
mining operation or, if no such zoning resolution or ordinance is 163
in effect, a statement attesting to that fact. The application 164
also shall contain an explanation of how the applicant intends to 165
comply with any applicable provisions of a zoning resolution or 166
ordinance. 167

(4) An estimate of the number of acres of land that will 168
comprise the total area of land to be affected and an estimate of 169
the number of acres of land to be affected during the first year 170
of operation under the permit; 171

~~(4)~~(5) The name and address of the owner of surface rights in 172
the land upon which the applicant proposes to engage in surface or 173
in-stream mining; 174

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

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

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

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

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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 general performance standards for mining and reclamation:

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

(b) Where a plan of zoning or other comprehensive plan has been adopted that governs land uses or the construction of public improvements and utilities for an area that includes the area sought to be mined, ensure that future land uses within the site will not conflict with the plan. On and after the effective date of this amendment, division (A)(10)(b) of this section does not apply to any surface or in-stream mining permit or applications for a surface or in-stream mining permit, any renewal of an existing surface or in-stream mining permit or application for a renewal of an existing surface or in-stream mining permit, any amendment or application for an amendment to an existing surface or in-stream mining permit, or any modification or application for a modification of a mining and reclamation plan of an existing surface or in-stream mining permit unless the application for such a permit, renewal, amendment, or modification is a resubmission, revision, or reconsideration of an application that was pending before the chief or was first approved prior to the effective date of this amendment.

(c) Grade, contour, or terrace final slopes, wherever needed, sufficient to achieve soil stability and control landslides, erosion, and sedimentation. Highwalls will be permitted if they

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are compatible with the future uses specified in the plan and
measures will be taken to ensure public safety. Where ponds,
impoundments, or other resulting bodies of water are intended for
recreational use, establish banks and slopes that will ensure safe
access to those bodies of water. Where such bodies of water are
not intended for recreation, include measures to ensure public
safety, but access need not be provided.

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

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

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

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

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

(i) During mining and reclamation, control drainage so as to
prevent the causing of flooding, landslides, and flood hazards to
adjoining lands resulting from the mining operation. Leave any

ponds in such condition as to avoid their constituting a hazard to adjoining lands. 270
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(j) During mining and reclamation, ensure that the effect of any reduction of the quantity of ground water is minimized; 272
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~~(j)~~(k) Ensure that mining and reclamation are carried out in the sequence and manner set forth in the plan and that reclamation measures are performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the mining of the area unless the operator makes a showing satisfactory to the chief that the future use of the area requires a longer period for completing reclamation. 274
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~~(k)~~(l) During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing, and resoiling that ~~is~~ are specified in the plan. Stabilize the slopes of and plant each spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur. 281
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~~(l)~~(m) During mining, promptly remove, store, or cover any coal, pyritic shale, or other acid producing materials in a manner that will minimize acid drainage and the accumulation of acid water; 287
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~~(m)~~(n) During mining, detonate explosives in a manner that will prevent damage to adjoining property; 291
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(o) In the case of in-stream mining, do all of the following: 293
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(i) Limit access to the channel of a watercourse to a single point of entry on one bank of the watercourse; 295
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(ii) Maintain riparian vegetation to the fullest extent possible; 297
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(iii) Upon cessation of in-stream mining, stabilize and 299

reclaim to the pre-mined condition the banks of a watercourse 300
affected by in-stream mining. 301

~~(10)~~(11) For any applicant, except an applicant for an 302
in-stream mining permit, who intends to extract less than ten 303
thousand tons of minerals per year and no incidental coal, a 304
current tax map, in triplicate and notarized, and the appropriate 305
United States geological survey seven and one-half minute 306
topographic map. Each copy shall bear the applicant's name and 307
shall identify the area of land to be affected corresponding to 308
the application. 309

~~(11)~~(12) For any applicant for a surface mining permit who 310
intends to extract ten thousand tons of minerals or more per year 311
or who intends to extract any incidental coal irrespective of the 312
tonnage of minerals intended to be mined, a map, in triplicate, on 313
a scale of not more than four hundred feet to the inch, or three 314
copies of an enlarged United States geological survey topographic 315
map on a scale of not more than four hundred feet to the inch. 316
Each application for an in-stream mining permit shall include such 317
a map regardless of the tons of minerals that the applicant 318
intends to extract. 319

The map shall comply with all of the following: 320

(a) Be prepared and certified by a professional engineer or 321
surveyor registered under Chapter 4733. of the Revised Code; 322

(b) Identify the area of land to be affected corresponding to 323
the application; 324

(c) Show the probable limits of subjacent and adjacent deep, 325
strip, ~~or~~ surface, or in-stream mining operations, whether active, 326
inactive, or mined out; 327

(d) Show the boundaries of the area of land to be affected 328
during the period of the permit and the area of land estimated to 329
be affected during the first year of operation, and name the 330

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surface and mineral owners of record of the area and the owners of record of adjoining surface properties;

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

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

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

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

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

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

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

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~~(12)~~(13) A certificate of public liability insurance issued 362
by an insurance company authorized to do business in this state or 363
obtained pursuant to sections 3905.30 to 3905.35 of the Revised 364
Code covering all surface or in-stream mining operations of the 365
applicant in this state and affording bodily injury and property 366
damage protection in amounts not less than the following: 367

(a) One hundred thousand dollars for all damages because of 368
bodily injury sustained by one person as the result of any one 369
occurrence, and three hundred thousand dollars for all damages 370
because of bodily injury sustained by two or more persons as the 371
result of any one occurrence; 372

(b) One hundred thousand dollars for all claims arising out 373
of damage to property as the result of any one occurrence, with an 374
aggregate limit of three hundred thousand dollars for all property 375
damage to which the policy applies. 376

(14) A sworn statement by the applicant that, during the term 377
of any permit issued under this chapter or of any renewal of such 378
a permit, the applicant will comply with all applicable zoning 379
resolutions or ordinances that are in effect at the time the 380
application is filed unless the resolutions or ordinances 381
subsequently become invalid during the term of the permit or 382
renewal; 383

(15) A copy of the advertisement that the applicant is 384
required to have published in accordance with section 1514.022 of 385
the Revised Code, if applicable; 386

~~(14)~~(16) For any applicant whose operation may result in 387
dewatering, a compilation of data in a form that is prescribed by 388
the chief and that is suitable to conduct ground water modeling in 389
order to establish a projected cone of depression for purposes of 390
section 1514.13 of the Revised Code. The chief shall adopt rules 391
as provided in section 1514.08 of the Revised Code establishing 392

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the minimum requirements and standards governing the data required 393
under this division. 394

(17) A statement by the applicant certifying that the 395
applicant has communicated with the county engineer of the county 396
in which the proposed surface or in-stream mining operation will 397
be located regarding any streets and roads under the county 398
engineer's jurisdiction that will be used by vehicles entering and 399
leaving the proposed surface or in-stream mining operation; 400

(18) In the case of an application for an in-stream mining 401
permit, a hydraulic evaluation of the watercourse prepared by a 402
professional engineer registered under Chapter 4733. of the 403
Revised Code. The hydraulic evaluation shall include, without 404
limitation, all of the following: 405

(a) Soundings that depict the cross-sectional views of the 406
channel bottom of the watercourse and water elevations for the 407
watercourse; 408

(b) A profile of the channel bottom; 409

(c) An analysis of design flows and water surface profiles 410
for the watercourse prior to in-stream mining and the proposed 411
final mining condition; 412

(d) An analysis of the expected changes in the roughness 413
coefficient, resistance to water flow velocity, and hydraulic 414
gradient in the channel bottom due to the proposed mining; 415

(e) Any additional information that the chief requires in 416
order to evaluate the potential impact of in-stream mining on the 417
watercourse and to determine if any additional performance 418
standards are required to protect the environment and property 419
outside the limits of the operation as established in the permit. 420

(B) No permit application or amendment shall be approved by 421
the chief if the chief finds that the reclamation described in the 422
application will not be performed in full compliance with this 423

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chapter or that there is not reasonable cause to believe that 424
reclamation as required by this chapter will be accomplished. 425

The chief shall issue an order denying an application for an 426
operating permit or an amendment if the chief determines that the 427
measures set forth in the plan are likely to be inadequate to 428
prevent damage to adjoining property or to achieve one or more of 429
the performance standards required in division (A)~~(9)~~(10) of this 430
section. 431

No permit application or amendment shall be approved if the 432
approval would result in a violation of division (E), (F), or (G)
of section 1514.10 of the Revised Code. 433
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No permit application or amendment shall be approved to 435
surface mine land adjacent to a public road in violation of 436
section 1563.11 of the Revised Code. 437

To ensure adequate lateral support, no permit application or 438
amendment shall be approved to engage in surface or in-stream 439
mining on land that is closer than fifty feet of horizontal 440
distance to any adjacent land or waters in which the operator 441
making application does not own the surface or mineral rights 442
unless the owners of the surface and mineral rights in and under 443
the adjacent land or waters consent in writing to surface or 444
in-stream mining closer than fifty feet of horizontal distance. 445
The consent, or a certified copy thereof, shall be attached to the 446
application as a part of the permanent record of the application 447
for a surface or in-stream mining permit. 448

The chief shall issue an order granting a permit upon the 449
chief's approval of an application, as required by this section, 450
filing of the performance bond required by section 1514.04 of the 451
Revised Code, ~~and payment of a permit fee in the amount of two~~ 452
~~hundred fifty dollars and an acreage fee in the amount of thirty~~ 453
~~seventy-five~~ dollars multiplied by the number of acres estimated 454

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in the application that will comprise the area of land to be 455
affected within the first year of operation under the permit, ~~but~~ 456
~~which acreage fee shall not exceed one thousand dollars per year~~ 457
and payment of a permit fee. The amount of the permit fee for a 458
surface mining permit shall be five hundred dollars, and the 459
amount of the permit fee for an in-stream mining permit shall be 460
two hundred fifty dollars. 461

The chief may issue an order denying a permit if the chief 462
finds that the applicant, any partner if the applicant is a 463
partnership, any officer or director if the applicant is a 464
corporation, or any other person who has a right to control or in 465
fact controls the management of the applicant or the selection of 466
officers, directors, or managers of the applicant has 467
substantially or materially failed to comply or continues to fail 468
to comply with this chapter, which failure may consist of one or 469
more violations thereof, a rule adopted thereunder, or an order of 470
the chief or failure to perform reclamation as required by this 471
chapter. The chief may deny or revoke the permit of any person who 472
so violates or fails to comply or who purposely misrepresents or 473
omits any material fact in the application for the permit or an 474
amendment to a permit. 475

If the chief denies the permit, the chief shall state the 476
reasons for denial in the order denying the permit. 477

Each permit shall be issued upon condition that the operator 478
will comply with this chapter and perform the measures set forth 479
in the operator's plan of mining and reclamation in a timely 480
manner ~~and upon the right of the.~~ The chief, mineral resources 481
inspectors, or other authorized representatives of the chief ~~to~~ 482
may enter upon the premises of the operator at reasonable times 483
for the purposes of determining whether or not there is compliance 484
with this chapter. 485

(C) If the chief approves ~~the~~ an application for a surface 486

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

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

(D) Before an operator engages in a surface or in-stream mining operation on land not described in the operator's permit, but that is contiguous to the land described in the operator's permit, the operator shall file with the chief an application for an amendment to the operator's permit. Before approving an amendment, the chief shall require the information, maps, fees, and amount, except as otherwise provided by rule, of the performance bond as required for an original application under this section and shall apply the same prohibitions and restrictions applicable to land described in an original application for a permit. An applicant for a significant amendment to a permit, as "significant" is defined by rule, shall include a

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copy of the advertisement that the applicant is required to have 519
published in accordance with section 1514.022 of the Revised Code. 520
If the chief disapproves the amendment, the chief shall state the 521
reasons for disapproval in the order disapproving the amendment. 522
Upon the approval of an amendment by the chief, the operator shall 523
be authorized to engage in surface mining on the land or in-stream 524
mining in the watercourse described in the operator's original 525
permit plus the land or area of the watercourse described in the 526
amendment until the date when the permit expires, or when the 527
chief, after inspection, orders the release of any remaining 528
performance bond deposited to assure satisfactory performance of 529
the reclamation measures required pursuant to this chapter, 530
whichever occurs earlier. 531

(E) An operator, at any time and upon application therefor 532
and approval by the chief, may amend the plan of mining and 533
reclamation filed with the application for a permit in order to 534
change the reclamation measures to be performed, modify the 535
interval after mining within which reclamation measures will be 536
performed, change the sequence in which mining or reclamation will 537
occur at specific locations within the area affected, mine acreage 538
previously mined or reclaimed, or for any other purpose, provided 539
that the plan, as amended, includes measures that the chief 540
determines will be adequate to prevent damage to adjoining 541
property and to achieve the performance standards set forth in 542
division (A)~~(9)~~(10) of this section. An application for a 543
significant amendment to a plan, as "significant" is defined by 544
rule, shall include a copy of the advertisement that the applicant 545
is required to have published in accordance with section 1514.022 546
of the Revised Code. 547

The chief may propose one or more amendments to the plan in 548
writing, within ninety days after the fifth anniversary of the 549
date of issuance of ~~the~~ a surface mining permit and or within 550

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ninety days after the first anniversary of the date of issuance of 551
an in-stream mining permit. The chief's proposal may be made upon 552
a finding of any of the following conditions after a complete 553
review of the plan and inspection of the area of land affected, 554
and the plan shall be so amended upon written concurrence in the 555
findings and approval of the amendments by the operator: 556

(1) An alternate measure, in lieu of one previously approved 557
in the plan, will more economically or effectively achieve one or 558
more of the performance standards. 559

(2) Developments in reclamation technology make an alternate 560
measure to achieve one or more of the performance standards more 561
economical, feasible, practical, or effective. 562

(3) Changes in the use or development of adjoining lands 563
require changes in the intended future uses of the area of land 564
affected in order to prevent damage to adjoining property. 565

~~(F) The chief shall issue an order granting or denying an~~ 566
~~operating permit or amendment to a permit or approving or denying~~ 567
~~an amendment to the operator's plan of mining and reclamation~~ 568
~~within ninety days after the filing of an application therefor. If~~ 569
~~the chief fails to act within that period with respect to a~~ 570
~~surface mining operation that existed prior to the initial date by~~ 571
~~which the chief requires a permit to be obtained, the operator may~~ 572
~~continue the operation until the chief issues an order denying a~~ 573
~~permit for the operation, and if the operator elects to appeal the~~ 574
~~order pursuant to section 1513.13 of the Revised Code, until the~~ 575
~~reclamation commission affirms the order of the chief denying the~~ 576
~~permit, and if the operator elects to appeal the order of the~~ 577
~~commission pursuant to section 1513.14 of the Revised Code, until~~ 578
~~the court of common pleas affirms the order~~ The holder of a 579
surface or in-stream mining permit who desires to transfer the 580
rights granted under the permit to another person at any time 581
during the term of the permit or its renewal shall file with the 582

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chief an application for the transfer of the permit. The chief 583
shall issue an order approving or disapproving the transfer of the 584
permit in accordance with criteria and procedures established by 585
rule. 586

Sec. 1514.021. (A) A permit holder who wishes to continue 587
 surface or in-stream mining operations after the expiration date 588
 of the existing permit or renewal permit shall file with the chief 589
 of the division of mineral resources management an application for 590
 renewal of a surface or in-stream mining permit or renewal permit 591
 at least ninety days before the expiration date of the existing 592
 permit or renewal permit. The application shall be upon the form 593
 that the chief prescribes and provides and shall be accompanied by 594
 the a permit fees required under division (B) of section 1514.02 595
of the Revised Code renewal fee. The amount of the fee for renewal 596
of a surface mining permit or renewal permit shall be one thousand 597
dollars, and the amount of the fee for renewal of an in-stream 598
mining permit or renewal permit shall be five hundred dollars. 599

(B) Upon receipt of an application for renewal and the permit 601
renewal fee under division (A) of this section, the chief shall 602
 notify the applicant to submit a map that is a composite of the 603
 information required to be contained in the most recent annual 604
 report map under section 1514.03 of the Revised Code and of all 605
 surface or in-stream mining and reclamation activities conducted 606
 under the existing permit or renewal permit; the annual report 607
 required under section 1514.03 of the Revised Code; in the case of 608
an applicant proposing a significant change to the plan of mining 609
and reclamation, as "significant" is defined by rule, a copy of 610
the advertisement that the applicant is required to have published 611
in accordance with section 1514.022 of the Revised Code; and 612
 additional maps, plans, and revised or updated information that 613
 the chief determines to be necessary for permit renewal. Within 614

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sixty days after receipt of this notification, the applicant shall
submit all the required information to the chief.

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

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

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

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

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

(D) Within sixty days after receiving the information and
permit renewal fees required under divisions (A) and (B) of this

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section, the chief shall approve the application for renewal and 646
issue an order granting a renewal permit, issue an order denying 647
the application, or notify the applicant that the time limit for 648
issuing such an order has been extended. This extension of time 649
shall not exceed sixty days. 650

(E) If an applicant for a renewal permit has complied with 651
division (A) of this section, the applicant may continue surface 652
or in-stream mining operations under the existing permit or 653
renewal permit after its expiration date until the sixty-day 654
period for filing the information required by the chief under 655
division (B) of this section has expired or until the chief issues 656
an order under division (D) of this section denying the renewal 657
permit. 658

(F) A permit holder who fails to submit an application and 659
required permit renewal fees within the time prescribed by 660
division (A) of this section shall cease surface or in-stream 661
mining operations on the expiration date of the existing permit or 662
renewal permit. If such a permit holder then submits an 663
application for renewal and the permit renewal fees otherwise 664
required by division (A) of this section on or before the 665
thirtieth day after the expiration date of the expired permit or 666
renewal permit and provides the information required by the chief 667
under division (B) of this section within sixty days after being 668
notified of the information required under that division, the 669
permit holder need not submit the final map and report required by 670
section 1514.03 of the Revised Code until the later of thirty days 671
after the chief issues an order denying the application for 672
renewal or thirty days after the chief's order is affirmed upon 673
appeal under section 1513.13 or 1513.14 of the Revised Code. An 674
applicant under this division who fails to provide the information 675
required by the chief under division (B) of this section within 676
the prescribed time period shall submit the final map and report 677

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required by section 1514.03 of the Revised Code within thirty days 678
after the expiration of that prescribed period. 679

(G) If the chief issues an order denying an application for 680
renewal of a permit or renewal permit after the expiration date of 681
the permit, the permit holder shall cease surface or in-stream 682
mining operations immediately and, within thirty days after the 683
issuance of the order, shall submit the final report and map 684
required under section 1514.03 of the Revised Code. The chief 685
shall state the reasons for denial in the order denying renewal of 686
the application. An applicant may appeal the chief's order denying 687
the renewal under section 1513.13 of the Revised Code and may 688
continue surface or in-stream mining and reclamation operations 689
under the expired permit until the reclamation commission affirms 690
the chief's order under that section and, if the applicant elects 691
to appeal the order of the commission under section 1513.14 of the 692
Revised Code, until the court of appeals affirms the order. 693

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(H) The approval of an application for renewal under this 695
section authorizes the continuation of ~~the~~ an existing surface 696
mining permit or renewal permit for a term of ~~ten~~ fifteen years 697
from the expiration date of the existing permit. 698

The approval of an application for renewal under this section 699
authorizes the continuation of an existing in-stream mining permit 700
or renewal permit for a term of two years from the expiration date 701
of the existing permit. 702

(I) Any renewal permit is subject to all the requirements of 703
this chapter and rules adopted under it. 704

Sec. 1514.022. (A) As used in this section: 705

(1) "Application" means any of the following: 706

(a) An application filed under division (A) of section 707

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1514.02 of the Revised Code for an initial permit for a proposed surface or in-stream mining operation; 708
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(b) An application filed under division (D) of section 1514.02 of the Revised Code for a significant amendment to a permit, as "significant" is defined by rule; 710
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(c) An application filed under division (E) of section 1514.02 of the Revised Code for a significant amendment to the plan of mining and reclamation that is proposed by the operator, as "significant" is defined by rule; 713
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(d) An application filed under section 1514.021 of the Revised Code for the renewal of a permit if the application proposes a significant change to the plan of mining and reclamation, as "significant" is defined by rule. 717
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(2) "Applicant" means a person who files an application. 721

(3) "Governmental agency" means each board of county commissioners, each board of township trustees, each legislative authority of a municipal corporation, and the planning commissioners having jurisdiction over all or part of the area of a surface or in-stream mining operation or a proposed surface or in-stream mining operation together with any other federal, state, or local governmental entities that the chief of the division of mineral resources management reasonably believes will be interested in an application. 722
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(B)(1) Except as otherwise provided in division (D) of this section, an applicant shall submit to the chief a copy of the applicant's advertisement required to be published under this division of the ownership, precise location, and boundaries of land to be affected by the surface or in-stream mining operation or proposed surface or in-stream mining operation that is the subject of the application. 731
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Upon receiving the application and advertisement, the chief 738

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shall designate a location at which the application will be 739
available for public inspection and shall assign to the 740
application an application identification number. When the chief 741
determines that the application is substantially complete, the 742
chief shall notify the applicant of the determination. At that 743
time, the applicant shall place the advertisement, together with 744
the application identification number and the notice of the 745
location at which the application will be available for 746
inspection, in a newspaper of general circulation in the locality 747
of the operation or proposed operation at least once a week for 748
four consecutive weeks. 749

(2) Except as otherwise provided in division (D) of this 750
section, upon determining that an application is substantially 751
complete, the chief shall provide written notice to governmental 752
agencies. The notice shall include all of the information required 753
to be published under division (B)(1) of this section together 754
with the date by which any written comments or objections must be 755
received by the chief for consideration in the review of the 756
application. That date shall be the date that is thirty days 757
following the date on which the chief sends the notice to the 758
governmental agencies. 759

If requested by a governmental agency within thirty-five days 760
following the date on which the governmental agency receives the 761
written notice from the chief, the chief may hold an informal 762
conference to aid in the public understanding of the permitting 763
process. The informal conference shall be held within two weeks 764
after the chief determines to hold such a conference and shall be 765
held in the county in which the surface or in-stream mining 766
operation is or is proposed to be located. 767

(C) Except as otherwise provided in division (D) of this 768
section, an operation or any person having an interest that is or 769
may be adversely affected by the operation or proposed operation 770

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and any governmental agency may file written comments about or 771
objections to an application with the chief. In the case of 772
interested persons who are not governmental agencies, the comments 773
or objections shall be filed not later than thirty days after the 774
last publication of the notice. In the case of governmental 775
agencies, the comments or objections shall be filed not later than 776
the date that the chief specified in the notice, except that at 777
the chief's discretion, the chief may accept comments or 778
objections from the agencies after that date if the chief 779
considers doing so to be in the public interest. The chief 780
immediately shall transmit comments or objections to the applicant 781
and shall make them available to the public at the same location 782
at which the application is available for inspection. 783

(D) Divisions (B) and (C) of this section do not apply if a 784
plan of zoning has been adopted for the area that includes the 785
location at which the operation is conducted or is proposed to be 786
conducted and either of the following applies: 787

(1) The plan of zoning allows mining at the location at which 788
the mining operation is or is proposed to be conducted. 789

(2) A zoning variance or conditional use certificate for a 790
mining operation, for which public notice and opportunity for 791
comment have been provided, has been received within three hundred 792
sixty-five days prior to submittal of an application. In such a 793
situation, an applicant shall provide the chief with a copy of the 794
notice, certified by the publisher, that was previously published. 795

Sec. 1514.023. Nothing in this chapter or rules adopted under 796
it shall be construed to prevent any county, township, or 797
municipal corporation from enacting, adopting, or enforcing zoning 798
resolutions or ordinances. However, the chief of the division of 799
mineral resources management shall not enforce such zoning 800
resolutions or ordinances. 801

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Sec. 1514.024. A local authority may enter into an agreement 802
with the operator of a surface or in-stream mining operation or of 803
a proposed surface or in-stream mining operation for the 804
improvement of roads under the jurisdiction of that local 805
authority that may be affected by the operation or for other 806
improvements within the jurisdiction of that local authority. 807
However, nothing in this section requires the surface or in-stream 808
mining operator to enter into such an agreement. 809

Sec. 1514.03. Within thirty days after each anniversary date 810
of issuance of a surface or in-stream mining permit, the operator 811
shall file with the chief of the division of mineral resources 812
management an annual report, on a form prescribed and furnished by 813
the chief, that, for the period covered by the report, shall state 814
the amount of and identify the types of minerals and coal, if any 815
coal, produced and shall state the number of acres affected and 816
the number of acres estimated to be affected during the next year 817
of operation. An annual report is not required to be filed if a 818
final report is filed in lieu thereof. 819

Each annual report for a surface mining operation shall 820
include a progress map indicating the location of areas of land 821
affected during the period of the report and the location of the 822
area of land estimated to be affected during the next year. The 823
map shall be prepared in accordance with division (A)~~(10)~~(11) or 824
~~(11)~~(12) of section 1514.02 of the Revised Code, as appropriate, 825
except that a map prepared in accordance with division (A)~~(11)~~(12) 826
of that section may be certified by the operator or authorized 827
agent of the operator in lieu of certification by a professional 828
engineer or surveyor registered under Chapter 4733. of the Revised 829
Code. However, the chief may require that an annual progress map 830
or a final map be prepared by a registered professional engineer 831
or registered surveyor if the chief has reason to believe that the 832

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operator exceeded the boundaries of the permit area or, if the 833
operator filed the map required under division (A)~~(10)~~(11) of 834
section 1514.02 of the Revised Code, that the operator extracted 835
ten thousand tons or more of minerals during the period covered by 836
the report. 837

Each annual report for an in-stream mining operation shall 838
include a statement of the total tonnage removed by in-stream 839
mining for each month and of the surface acreage and depth of 840
material removed by in-stream mining and shall include a map that 841
identifies the area affected by the in-stream mining, soundings 842
that depict the cross-sectional views of the channel bottom of the 843
watercourse, and water elevations for the watercourse. 844

Each annual report shall be accompanied by a filing fee in 845
the amount of ~~two~~ five hundred fifty dollars and, except in the 846
case of an annual report filed by a small operator or an in-stream 847
mining operator. A small operator, which is a surface mine 848
operator who intends to extract fewer than ten thousand tons of 849
minerals and no coal during the next year of operation under the 850
permit, or an in-stream mining operator shall include a filing fee 851
in the amount of two hundred fifty dollars with each annual 852
report. The annual report of any operator also shall be 853
accompanied by an acreage fee in the amount of ~~thirty~~ seventy-five 854
dollars multiplied by the number of acres estimated in the report 855
to be affected during the next year of operation under the permit. 856
The acreage fee shall be adjusted by subtracting a credit of 857
thirty ~~seventy-five~~ dollars per excess acre paid for the preceding 858
year if the acreage paid for the preceding year exceeds the 859
acreage actually affected or by adding an additional amount of 860
thirty ~~seventy-five~~ dollars per excess acre affected if the 861
acreage actually affected exceeds the acreage paid for the 862
preceding year. 863

With each annual report the operator shall file a performance 864

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bond in the amount, unless otherwise provided by rule, of ~~five~~
~~hundred one thousand~~ dollars multiplied by the number of acres
estimated to be affected during the next year of operation under
the permit for which no performance bond previously was filed. ~~The~~
Unless otherwise provided by rule, the bond shall be adjusted by
subtracting a credit of ~~five hundred one thousand~~ dollars per
excess acre for which bond was filed for the preceding year if the
acreage for which the bond was filed for the preceding year
exceeds the acreage actually affected, or by adding an amount of
~~five hundred one thousand~~ dollars per excess acre affected if the
acreage actually affected exceeds the acreage for which bond was
filed for the preceding year.

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

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

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

If the final report and certified map, as verified by the
chief, show that the number of acres affected under the permit is
larger than the number of acres for which the operator has paid an
acreage fee or filed a performance bond, upon notification by the

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chief, the operator shall pay an additional acreage fee in the amount of ~~thirty~~ seventy-five dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee and shall file an additional performance bond in the amount, unless otherwise provided by rule, of ~~five hundred~~ one thousand dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

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

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

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

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Sec. 1514.04. Upon receipt of notification from the chief of 928
the division of mineral resources management of the chief's intent 929
to issue an order granting a surface or in-stream mining permit to 930
the applicant, the applicant shall file a surety bond, cash, an 931
irrevocable letter of credit, or certificates of deposit in the 932
amount, unless otherwise provided by rule, of ~~two~~ ten thousand 933
dollars plus one thousand dollars, ~~or five hundred dollars~~ per 934
acre of land to be affected, ~~whichever is greater.~~ Upon receipt of 935
notification from the chief of the chief's intent to issue an 936
order granting an amendment to a surface or in-stream mining 937
permit, the applicant shall file a surety bond, cash, an 938
irrevocable letter of credit, or certificates of deposit in the 939
amount, unless otherwise provided by rule, of ~~five hundred one~~ 940
thousand dollars per acre of land to be affected. 941

In the case of a surface mining permit, the bond shall be 942
filed for the number of acres estimated to be affected during the 943
first year of operation under the permit. In the case of an 944
amendment to a surface mining permit, the bond shall be filed for 945
the number of acres estimated to be affected during the balance of 946
the period until the next anniversary date of the permit. 947

In the case of an in-stream mining permit, the bond shall be 948
filed for the number of acres of land within the limits of the 949
in-stream mining permit for the entire permit period. In the case 950
of an amendment to an in-stream mining permit, the bond shall be 951
filed for the number of any additional acres of land to be 952
affected within the limits of the in-stream mining permit. 953

A surety bond filed pursuant to this section and sections 954
1514.02 and 1514.03 of the Revised Code shall be upon the form 955
that the chief prescribes and provides and shall be signed by the 956
operator as principal and by a surety company authorized to 957
transact business in the state as surety. The bond shall be 958

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payable to the state and shall be conditioned upon the faithful 959
performance by the operator of all things to be done and performed 960
by the operator as provided in this chapter and the rules and 961
orders of the chief adopted or issued pursuant thereto. 962

The operator may deposit with the chief, in lieu of a surety 963
bond, cash in an amount equal to the surety bond as prescribed in 964
this section, an irrevocable letter of credit or negotiable 965
certificates of deposit issued by any bank organized or 966
transacting business in this state, or an irrevocable letter of 967
credit or certificates of deposit issued by any savings and loan 968
association as defined in section 1151.01 of the Revised Code, 969
having a cash value equal to or greater than the amount of the 970
surety bond as prescribed in this section. Cash or certificates of 971
deposit shall be deposited upon the same terms as the terms upon 972
which surety bonds may be deposited. If one or more certificates 973
of deposit are deposited with the chief in lieu of a surety bond, 974
the chief shall require the bank or savings and loan association 975
that issued any such certificate to pledge securities of a cash 976
value equal to the amount of the certificate, or certificates, 977
that is in excess of the amount insured by the federal deposit 978
insurance corporation. The securities shall be security for the 979
repayment of the certificate of deposit. 980

Immediately upon a deposit of cash, a letter of credit, or 981
certificates with the chief, the chief shall deliver it to the 982
treasurer of state who shall hold it in trust for the purposes for 983
which it has been deposited. The treasurer of state shall be 984
responsible for the safekeeping of such deposits. An operator 985
making a deposit of cash, a letter of credit, or certificates of 986
deposit may withdraw and receive from the treasurer of state, on 987
the written order of the chief, all or any part of the cash, 988
letter of credit, or certificates in the possession of the 989
treasurer of state, upon depositing with the treasurer of state 990

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cash, an irrevocable letter of credit, or negotiable certificates
of deposit issued by any bank organized or transacting business in
this state, or an irrevocable letter of credit or certificates of
deposit issued by any savings and loan association, equal in value
to the value of the cash, letter of credit, or certificates
withdrawn. An operator may demand and receive from the treasurer
of state all interest or other income from any certificates as it
becomes due. If certificates deposited with and in the possession
of the treasurer of state mature or are called for payment by the
issuer thereof, the treasurer of state, at the request of the
operator who deposited them, shall convert the proceeds of the
redemption or payment of the certificates into such other
negotiable certificates of deposit issued by any bank organized or
transacting business in this state, such other certificates of
deposit issued by any savings and loan association, or cash, as
may be designated by the operator.

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

Sec. 1514.05. (A) At any time within the period allowed an
operator by section 1514.02 of the Revised Code to reclaim an area
of land affected by surface or in-stream mining, the operator may
file a request, on a form provided by the chief of the division of
mineral resources management, for inspection of the area of land
upon which a phase of the reclamation, ~~other than any required~~
~~planting,~~ is completed. 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

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bonds under this section, reclamation shall be considered to occur 1023
in two phases. The first phase involves grading, contouring, 1024
terracing, resoiling, and initial planting. The second phase 1025
involves the establishment of vegetative cover together with the 1026
maintenance and the completion of all reclamation required under 1027
this chapter or rules adopted under it. 1028

A request for inspection at the completion of a phase of 1029
reclamation shall include all of the following: 1030

(1) The location of the area and number of acres; 1031

(2) The permit number; 1032

(3) The amount of performance bond on deposit at the time of 1033
the request to ensure reclamation of the area; 1034

(4) A map showing the location of the acres reclaimed, 1035
prepared and certified in accordance with division (A)~~(10)~~(11) or 1036
~~(11)~~(12) of section 1514.02 of the Revised Code, as appropriate. 1037
In the case of an in-stream mining operation, the map also shall 1038
include the information required under division (A)(18) of section 1039
1514.02 of the Revised Code. 1040

In addition, a request for inspection of the second phase of 1041
reclamation shall include a description of the type and date of 1042
any required planting and a statement regarding the degree of 1043
success of the growth. 1044

(B) The chief shall make an inspection and evaluation of the 1045
reclamation of the area of land for which ~~the~~ a request was 1046
submitted within ninety days after receipt of the request or, if 1047
the operator fails to complete the reclamation or file the request 1048
as required, as soon as the chief learns of the default. 1049
Thereupon, if the chief approves the first phase of the 1050
~~reclamation other than any required planting~~ as meeting the 1051
requirements of this chapter, rules adopted thereunder, any orders 1052

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issued during the mining or reclamation, and the specifications of 1053
the plan for mining and reclaiming, the chief shall issue an order 1054
to the operator and the operator's surety releasing them from 1055
liability for ~~one-half the total amount~~ the applicable percentage 1056
specified in this division of their surety bond on deposit to 1057
ensure reclamation for the area upon which reclamation is 1058
completed. If the chief approves the second phase of the 1059
reclamation, the chief shall order release of the remaining 1060
performance bond, after completing the inspection and evaluation, 1061
in the same manner as in the case of approval of the first phase 1062
of reclamation, and the treasurer of state shall proceed as in 1063
that case. 1064

On approval of the first phase of reclamation, the chief 1065
shall release seventy-five per cent of the amount of the surety 1066
bond on deposit. On approval of the second phase of reclamation, 1067
the chief shall release the remaining amount of the surety bond 1068
that originally was on deposit. 1069

If the operator has deposited cash, an irrevocable letter of 1070
credit, or certificates of deposit in lieu of a surety bond to 1071
ensure reclamation, the chief shall issue an order to the operator 1072
releasing ~~one-half of the total~~ amount so held in the same manner 1073
and in the same percentages that apply to the release of a surety 1074
bond and promptly shall transmit a certified copy of the order to 1075
the treasurer of state. Upon presentation of the order to the 1076
treasurer of state by the operator to whom it was issued, or by 1077
the operator's authorized agent, the treasurer of state shall 1078
deliver to the operator or the operator's authorized agent the 1079
cash, irrevocable letter of credit, or certificates of deposit 1080
designated in the order. 1081

(C) If the chief does not approve a phase of the reclamation 1082
~~other than any required planting~~, the chief shall notify the 1083
operator by certified mail. The notice shall be an order stating 1084

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the reasons for unacceptability, ordering further actions to be 1085
taken, and setting a time limit for compliance. If the operator 1086
does not comply with the order within the time limit specified, 1087
the chief may order an extension of time for compliance after 1088
determining that the operator's noncompliance is for good cause, 1089
resulting from developments partially or wholly beyond the 1090
operator's control. If the operator complies within the time limit 1091
or the extension of time granted for compliance, the chief shall 1092
order release of the performance bond in the same manner as in the 1093
case of approval of reclamation ~~other than planting~~ by the chief, 1094
and the treasurer of state shall proceed as in that case. If the 1095
operator does not comply within the time limit and the chief does 1096
not order an extension, or if the chief orders an extension of 1097
time and the operator does not comply within the extension of time 1098
granted for compliance, the chief shall issue another order 1099
declaring that the operator has failed to reclaim and, if the 1100
operator's permit has not already expired or been revoked, 1101
revoking the operator's permit. The chief shall thereupon proceed 1102
under division ~~(C)~~(D) of this section. 1103

~~(B) At any time within the period allowed an operator by 1104
section 1514.02 of the Revised Code to reclaim an area affected by 1105
surface mining, the operator may file a request, on a form 1106
provided by the chief, for inspection of the area of land upon 1107
which all reclamation, including the successful establishment of 1108
any required planting, is completed. The request shall include all 1109
of the following:~~ 1110

~~(1) The location of the area and number of acres;~~ 1111

~~(2) The permit number;~~ 1112

~~(3) The remaining amount of performance bond on deposit to 1113
ensure reclamation of the area;~~ 1114

~~(4) The type and date of any required planting of vegetative 1115
cover and the degree of success of growth;~~ 1116

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~~(5) A map showing the location of the acres reclaimed, 1117
prepared and certified in accordance with division (A)(10) or (11) 1118
of section 1514.02 of the Revised Code, as appropriate. 1119~~

~~The chief shall make an inspection and evaluation of the 1120
reclamation of the area of land for which the request was 1121
submitted within ninety days after receipt of the request or, if 1122
the operator fails to complete the reclamation or file the request 1123
as required, as soon as the chief learns of the default. 1124
Thereupon, if the chief finds that the reclamation meets the 1125
requirements of this chapter, rules adopted thereunder, any orders 1126
issued during the mining and reclamation, and the specifications 1127
of the plan for mining and reclaiming and decides to release any 1128
remaining performance bond on deposit to ensure reclamation of the 1129
area upon which reclamation is completed, within ten days of 1130
completing the inspection and evaluation, the chief shall order 1131
release of the remaining performance bond in the same manner as in 1132
the case of approval of reclamation other than planting, and the 1133
treasurer of state shall proceed as in that case. 1134~~

~~If the chief does not approve the reclamation performed by 1135
the operator, the chief shall notify the operator by certified 1136
mail within ninety days of the filing of the application for 1137
inspection or of the date when the chief learns of the default. 1138
The notice shall be an order stating the reasons for 1139
unacceptability, ordering further actions to be taken, and setting 1140
a time limit for compliance. If the operator does not comply with 1141
the order within the time limit specified, the chief may order an 1142
extension of time for compliance after determining that the 1143
operator's noncompliance is for good cause, resulting from 1144
developments partially or wholly beyond the operator's control. If 1145
the operator complies within the time limit or the extension of 1146
time granted for compliance, the chief shall order release of the 1147
remaining performance bond in the same manner as in the case of 1148~~

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~~approval of reclamation by the chief, and the treasurer of state~~ 1149
~~shall proceed as in that case. If the operator does not comply~~ 1150
~~within the time limit and the chief does not order an extension,~~ 1151
~~or if the chief orders an extension of time and the operator does~~ 1152
~~not comply within the extension of time granted for compliance,~~ 1153
~~the chief shall make another order declaring that the operator has~~ 1154
~~failed to reclaim and, if the operator's permit has not already~~ 1155
~~expired or been revoked, revoking the operator's permit. The chief~~ 1156
~~then shall proceed under division (C) of this section.~~ 1157

~~(C)(D) Upon issuing an order under division (A) or (B)(C) of~~ 1158
~~this section declaring that the operator has failed to reclaim,~~ 1159
~~the chief shall make a finding as to the number and location of~~ 1160
~~the acres of land that the operator has failed to reclaim in the~~ 1161
~~manner required by this chapter. The chief shall order the release~~ 1162
~~of the performance bond in the amount of five hundred dollars per~~ 1163
~~acre for those acres that the chief finds to have been reclaimed~~ 1164
~~in the manner required by this chapter. The release shall be~~ 1165
~~ordered in the same manner as in the case of other approval of~~ 1166
~~reclamation by the chief, and the treasurer of state shall proceed~~ 1167
~~as in that case. If the operator has on deposit cash, an~~ 1168
~~irrevocable letter of credit, or certificates of deposit to ensure~~ 1169
~~reclamation of the area of the land affected, the retain all or~~ 1170
~~part of the performance bond on deposit for reclamation of the~~ 1171
~~affected surface or in-stream mine site. The chief at the same~~ 1172
~~time shall issue an order declaring that the remaining cash,~~ 1173
~~irrevocable letter of credit, or certificates of deposit is, if~~ 1174
~~any, are the property of the state and is are available for use by~~ 1175
~~the chief in performing reclamation of the area and shall proceed~~ 1176
~~in accordance with section 1514.06 of the Revised Code.~~ 1177

If the operator has on deposit a surety bond to ensure 1178
reclamation of the area of land affected, the chief shall notify 1179
the surety in writing of the operator's default and shall request 1180

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the surety to perform the surety's obligation and that of the operator. The surety, within ten days after receipt of the notice, shall notify the chief as to whether it intends to perform those obligations.

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

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

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

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shall proceed in accordance with section 1514.06 of the Revised Code. 1213
1214

Sec. 1514.06. (A) There is hereby created in the state 1215
treasury the surface mining fund. All cash that becomes the 1216
property of the state pursuant to section 1514.05 of the Revised 1217
Code shall be deposited in the fund, and expenditures from the 1218
fund shall be made by the chief of the division of mineral 1219
resources management only for the purpose of reclaiming areas of 1220
land affected by surface or in-stream mining operations on which 1221
an operator has defaulted. 1222

(B) Expenditures of moneys from the fund, except as otherwise 1223
provided by this section, shall be made pursuant to contracts 1224
entered into by the chief with persons who agree to furnish all of 1225
the materials, equipment, work, and labor, as specified and 1226
provided in the contracts, for the prices stipulated therein. With 1227
the approval of the director of natural resources, the chief may 1228
reclaim the land in the same manner as the chief required of the 1229
operator who defaulted. Each contract awarded by the chief shall 1230
be awarded to the lowest responsive and responsible bidder, in 1231
accordance with section 9.312 of the Revised Code, after sealed 1232
bids are received, opened, and published at the time and place 1233
fixed by the chief. The chief shall publish notice of the time and 1234
place at which bids will be received, opened, and published, at 1235
least once at least ten days before the date of the opening of the 1236
bids, in a newspaper of general circulation in the county in which 1237
the area of land to be reclaimed under the contract is located. 1238
If, after so advertising for bids, no bids are received by the 1239
chief at the time and place fixed for receiving them, the chief 1240
may advertise again for bids, or, if the chief considers the 1241
public interest will be best served, the chief may enter into a 1242
contract for the reclamation of the area of land without further 1243
advertisement for bids. The chief may reject any or all bids 1244

received and again publish notice of the time and place at which 1245
bids for contracts will be received, opened, and published. 1246
1247

(C) With the approval of the director, the chief, without 1248
advertising for bids, may enter into a contract with the 1249
landowner, a surface or in-stream mine operator or coal mine 1250
operator mining under a current, valid permit issued under this 1251
chapter or Chapter 1513. of the Revised Code, or a contractor 1252
hired by a surety to complete reclamation, to carry out 1253
reclamation on land affected by surface or in-stream mining 1254
operations on which an operator has defaulted. 1255

(D) With the approval of the director, the chief may carry 1256
out all or part of the reclamation work on land affected by 1257
surface or in-stream mining operations on which the operator has 1258
defaulted using the employees and equipment of any division of the 1259
department of natural resources. 1260

(E) The chief shall require every contractor performing 1261
reclamation work under this section to pay workers at the greater 1262
of their regular rate of pay, as established by contract, 1263
agreement, or prior custom or practice, or the average wage rate 1264
paid in this state for the same or similar work, as determined by 1265
the chief under section 1513.02 of the Revised Code. 1266

(F) Each contract entered into by the chief under this 1267
section shall provide only for the reclamation of land affected by 1268
the surface or in-stream mining operation or operations of one 1269
operator and not reclaimed by the operator as required by this 1270
chapter. If there is money in the fund derived from the 1271
performance bond deposited with the chief by one operator to 1272
ensure the reclamation of two or more areas of land affected by 1273
the surface or in-stream mining operation or operations of one 1274
operator and not reclaimed by the operator as required by this 1275
chapter, the chief may award a single contract for the reclamation 1276

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of all such areas of land. 1277

(G) The cost of the reclamation work done under this section 1278
on each area of land affected by surface or in-stream mining 1279
operations on which an operator has defaulted shall be paid out of 1280
the money in the fund derived from the performance bond that was 1281
deposited with the chief to ensure the reclamation of that area of 1282
land. If the amount of money is not sufficient to pay the cost of 1283
doing all of the reclamation work on the area of land that the 1284
operator should have done, but failed to do, the chief may expend 1285
from the reclamation forfeiture fund created in section 1513.18 of 1286
the Revised Code or the surface mining fund created in this 1287
section the amount of money needed to complete reclamation to the 1288
standards required by this chapter. The operator is liable for 1289
that expense in addition to any other liabilities imposed by law. 1290
At the request of the chief, the attorney general shall bring an 1291
action against the operator for the amount of the expenditures 1292
from either fund. Moneys so recovered shall be deposited in the 1293
appropriate fund from which the expenditures were made. 1294

(H) If any part of the money in the surface mining fund 1295
remains in the fund after the chief has caused the area of land to 1296
be reclaimed and has paid all the reclamation costs and expenses, 1297
or if any money remains because the area of land has been 1298
repermitted under this chapter or reclaimed by a person other than 1299
the chief, the chief may expend the remaining money to complete 1300
other reclamation work performed under this section. 1301

Sec. 1514.07. Each order of the chief of the division of 1302
mineral resources management affecting the rights, duties, or 1303
privileges of an operator or the operator's surety or of an 1304
applicant for a permit or an amendment to a permit or a plan shall 1305
be in writing and contain a finding by the chief of the facts upon 1306
which the order is based. Notice of the order shall be given by 1307
certified mail to each person whose rights, duties, or privileges 1308

are affected. 1309

If the chief finds that an operator has violated any 1310
requirement of this chapter, failed to perform any measure set 1311
forth in the approved plan of mining and reclamation that is 1312
necessary to prevent damage to adjoining property or to achieve, 1313
or has otherwise failed to achieve, the performance standards of 1314
division (A)~~(9)~~(10) of section 1514.02 of the Revised Code, or 1315
caused damage to adjoining property, the chief may issue orders 1316
directing the operator to cease violation, perform such measures, 1317
achieve such standards, or prevent or abate off-site damage. The 1318
order shall identify the operation where the violation occurs, the 1319
specific requirement violated, measure not performed, standard not 1320
achieved, or off-site damage caused, and where practicable 1321
prescribe what action the operator may take to comply with the 1322
order. The chief shall fix and set forth in the order a reasonable 1323
date or time by which the operator shall comply, and the order 1324
shall state that the chief may revoke the operator's permit if the 1325
order is not complied with by ~~such~~ that date or time. If upon ~~such~~ 1326
that date or time the chief finds that the operator has not 1327
complied with the order, the chief may issue an order revoking the 1328
operator's permit. 1329

Sec. 1514.071. (A) In addition to any other penalties 1330
established under this chapter, the chief of the division of 1331
mineral resources management may assess a civil penalty against 1332
any person who fails to comply with an order issued by the chief 1333
under section 1514.07 of the Revised Code by the date specified in 1334
the order or as subsequently extended by the chief. 1335

(B) Civil penalties assessed under this section shall not 1336
exceed one thousand dollars for each occurrence of noncompliance 1337
with an order. Each day of continuing noncompliance, up to a 1338
maximum of thirty days, may be deemed a separate occurrence for 1339
purposes of penalty assessments. In determining the amount of the 1340

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assessment, the chief shall consider the seriousness of the 1341
noncompliance, the effect of the noncompliance, and the operator's 1342
history of noncompliance. 1343

(C) Upon issuance of a notice of noncompliance with an order, 1344
the chief shall inform the person to whom the notice of 1345
noncompliance is issued of the amount of any civil penalty to be 1346
assessed and provide an opportunity for an adjudicatory hearing 1347
with the reclamation commission pursuant to section 1514.09 of the 1348
Revised Code. The person charged with the penalty shall have 1349
thirty days from receipt of the assessment to pay the penalty in 1350
full or, if the person wishes to contest the amount of the 1351
penalty, file a petition for review of the assessment with the 1352
commission pursuant to section 1514.09 of the Revised Code and 1353
forward the amount of the penalty to the secretary of the 1354
commission as required by this division. Failure to forward the 1355
money to the secretary within thirty days after the chief informs 1356
the person of the amount of the penalty shall result in a waiver 1357
of all legal rights to contest the amount of the penalty. 1358

If, after a hearing, the commission affirms or modifies the 1359
amount of the penalty, the person charged with the penalty shall 1360
have thirty days after receipt of the written decision to file an 1361
appeal from the commission's order in accordance with section 1362
1514.09 of the Revised Code. 1363

At the time that the petition for review of the assessment is 1364
filed with the secretary, the person shall forward the amount of 1365
the penalty to the secretary for placement in the reclamation 1366
penalty fund created in division (F)(3) of section 1513.02 of the 1367
Revised Code. Pursuant to administrative or judicial review of the 1368
penalty, the secretary shall do either of the following: 1369

(1) If it is determined that the amount of the penalty should 1370
be reduced, within thirty days, remit the appropriate amount of 1371
the penalty to the person, with interest, and forward any balance 1372

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of the penalty, with interest, to the chief for deposit in the 1373
surface mining fund created in section 1514.06 of the Revised Code 1374
for reclamation of abandoned surface or in-stream mining 1375
operations in the state; 1376

(2) If the penalty was not reduced, forward the entire 1377
penalty, with interest, to the chief for deposit in the surface 1378
mining fund for reclamation of abandoned surface or in-stream 1379
mining operations in the state. 1380

(D) Civil penalties owed under this section may be recovered 1381
in a civil action brought by the attorney general upon the request 1382
of the chief. 1383

Sec. 1514.072. Whenever a person fails to comply with an 1384
order issued by the chief of the division of mineral resources 1385
management, the chief, in addition to any other remedy under this 1386
chapter, may request the attorney general to institute a civil 1387
action to compel compliance with the order, including a permanent 1388
or temporary injunction, a restraining order, or any other 1389
appropriate order, in the court of common pleas of the county in 1390
which the noncompliance is occurring or has occurred. The court 1391
shall grant the relief requested upon a demonstration that 1392
noncompliance with an order of the chief is occurring or has 1393
occurred. 1394

Sec. 1514.08. (A) The chief of the division of mineral 1395
resources management may adopt, amend, and rescind rules in 1396
accordance with Chapter 119. of the Revised Code in order to 1397
prescribe procedures for submitting applications for permits, 1398
amendments to permits, and amendments to plans of mining and 1399
reclamation; filing annual reports and final reports; requesting 1400
inspection and approval of reclamation; paying permit and filing 1401
fees; and filing and obtaining the release of performance bonds 1402

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deposited with the state. For the purpose of preventing damage to 1403
adjoining property or achieving one or more of the performance 1404
standards established in division (A)~~(9)~~(10) of section 1514.02 of 1405
the Revised Code, the chief may establish classes of mining 1406
industries, based upon industrial categories, combinations of 1407
minerals produced, and geological conditions in which surface or 1408
in-stream mining operations occur, and may prescribe different 1409
rules consistent with the performance standards for each class. 1410
For the purpose of apportioning the workload of the division of 1411
mineral resources management among the quarters of the year, the 1412
rules may require that applications for permits and annual reports 1413
be filed in different quarters of the year, depending upon the 1414
county in which the operation is located. 1415

(B) The chief shall adopt rules under this section that do 1416
all of the following: 1417

(1) With respect to in-stream mining, and in consultation 1418
with the chief of the division of water, determine periods of low 1419
flow, which are the only time periods during which in-stream 1420
mining is allowed, and develop and implement any criteria, in 1421
addition to the criteria established in section 1514.02 of the 1422
Revised Code, that the chief determines are necessary for the 1423
permitting of in-stream mining; 1424

(2) Establish criteria and procedures for approving or 1425
disapproving the transfer of a surface or in-stream mining permit 1426
under division (F) of section 1514.02 of the Revised Code; 1427

(3) Define when any of the following may be considered to be 1428
"significant" for purposes of section 1514.022 of the Revised 1429
Code: 1430

(a) An amendment to a permit issued under section 1514.02 of 1431
the Revised Code for a surface or in-stream mining operation; 1432

(b) An amendment to the plan of mining and reclamation that 1433

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must be filed with an application for either permit under section 1434
1514.02 of the Revised Code; 1435

(c) Changes to that plan of mining and reclamation that are 1436
proposed in a permit renewal application filed under section 1437
1514.021 of the Revised Code. 1438

In defining "significant," the chief shall focus on changes 1439
that increase the likelihood that the mining operation may have a 1440
negative impact on the public. 1441

(4) Establish a framework and procedures under which the 1442
amount of any bond required to be filed under this chapter to 1443
ensure the satisfactory performance of the reclamation measures 1444
required under this chapter may be reduced by subtracting a credit 1445
based on the operator's past compliance with this chapter and 1446
rules adopted and orders issued under it. The rules also shall 1447
apply to cash, an irrevocable letter of credit, or a certificate 1448
of deposit that is on deposit in lieu of a bond. In establishing 1449
the amount of credit that an operator or applicant may receive 1450
based on past compliance, the chief may consider past compliance 1451
with respect to any permit for a surface or in-stream mining 1452
operation that has been issued in this state to the operator or 1453
applicant. 1454

(5) Establish criteria and procedures for granting a variance 1455
from compliance with the prohibitions established in divisions 1456
(E)(3) and (F)(3) of section 1514.10 of the Revised Code. The 1457
criteria shall ensure that an operator may obtain a variance only 1458
if compliance with the applicable prohibition is not necessary to 1459
prevent damage to the watercourse or surrounding areas. 1460

Sec. 1514.09. The reclamation commission established pursuant 1461
to section 1513.05 of the Revised Code shall serve as the 1462
reclamation commission pursuant to this chapter. However, whenever 1463
the commission is considering any appeal pertaining to surface or 1464

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in-stream mining, as distinguished from coal strip mining, the member representing the coal strip mine operators shall be replaced by a person who, by reason of the person's previous vocation, employment, or affiliations, can be classed as a representative of surface or in-stream mine operators, as applicable. The appointment of ~~said~~ that person shall be made in accordance with section 1513.05 of the Revised Code, and the person's term shall be concurrent with that of the representative of the coal strip mine operators.

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

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

Sec. 1514.10. No person shall:

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

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

(B) Exceed the limits of a surface or in-stream mining permit or amendment to a permit by mining land contiguous to an area of land affected under a permit or amendment, which contiguous land

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- is not under a permit or amendment; 1496
- (C) Purposely misrepresent or omit any material fact in an 1497
 application for a surface or in-stream mining permit or amendment, 1498
 an annual or final report, or ~~in~~ any hearing or investigation 1499
 conducted by the chief ~~of the division of mineral resources~~ 1500
~~management~~ or the reclamation commission; 1501
- (D) Fail to perform any measure set forth in the approved 1502
 plan of mining and reclamation that is necessary to prevent damage 1503
 to adjoining property or to achieve a performance standard 1504
required in division (A)~~(9)~~(10) of section 1514.02 of the Revised 1505
 Code, or violate any other requirement of this chapter, a rule 1506
 adopted thereunder, or an order of the chief; 1507
- (E) Conduct surface excavations of minerals within any of the 1508
following: 1509
- (1) One hundred twenty feet horizontal distance outward from 1510
the highwater mark on each bank of an area designated as a wild, 1511
scenic, or recreational river area under sections 1517.14 to 1512
1517.18 of the Revised Code or of a portion of a river designated 1513
as a component of the national wild and scenic river system under 1514
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1515
1274, as amended; 1516
- (2) Seventy-five feet horizontal distance outward from the 1517
highwater mark on each bank of a watercourse that drains a surface 1518
area of more than one hundred square miles; 1519
- (3) Fifty feet horizontal distance outward from the highwater 1520
mark on each bank of a watercourse that drains a surface area of 1521
more than twenty-five square miles, but fewer than one hundred 1522
square miles unless a variance is obtained under rules adopted by 1523
the chief. 1524
- (F) Conduct any surface mining activity within any of the 1525
following: 1526

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

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

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

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

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

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

(1) In an area designated as a wild, scenic, or recreational river area under sections 1517.14 to 1517.18 of the Revised Code, in a portion of a river designated as a component of the national

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wild and scenic river system under the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1274, as amended, or within one-half mile upstream of any portion of such an area or component; 1558
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1561

(2) During periods other than periods of low flow, as determined by rules adopted under section 1514.08 of the Revised Code; 1562
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(3) During critical fish or mussel spawning seasons as determined by the chief of the division of wildlife under Chapter 1531. of the Revised Code and rules adopted under it; 1565
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(4) In an area known to possess critical spawning habitat for a species of fish or mussel that is on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531-1543, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code. 1568
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Division (G) of this section does not apply to the activities described in divisions (M)(1) and (2) of section 1514.01 of the Revised Code. 1574
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Sec. 1514.11. In addition to the purposes authorized in 1577
section 1514.06 of the Revised Code, the chief of the division of 1578
mineral resources management may use moneys in the surface mining 1579
fund created under that section for the administration and 1580
enforcement of this chapter, for the reclamation of land affected 1581
by surface or in-stream mining under a permit issued under this 1582
chapter that the operator failed to reclaim and for which the 1583
performance bond filed by the operator is insufficient to complete 1584
the reclamation, and for the reclamation of land affected by 1585
surface or in-stream mining that was abandoned and left 1586
unreclaimed and for which no permit was issued or bond filed under 1587
this chapter, ~~and~~. Also, the chief may use the portion of the 1588

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surface mining fund that consists of moneys collected from the 1589
severance taxes levied under section 5749.02 of the Revised Code 1590
for the mine safety and first aid classes provided under division 1591
(C) of section 1561.26 of the Revised Code. ~~The chief, with the~~ 1592
~~approval of the director of natural resources, annually shall~~ 1593
~~determine the amounts to be expended for the mine safety and first~~ 1594
~~aid classes.~~ For purposes of this section, the chief shall expend 1595
moneys in the fund in accordance with the procedures and 1596
requirements established in section 1514.06 of the Revised Code 1597
and may enter into contracts and perform work in accordance with 1598
that section. 1599

Fees collected under sections 1514.02 and 1514.03 of the 1600
Revised Code, one-half of the moneys collected from the severance 1601
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 1602
the Revised Code, and all of the moneys collected from the 1603
severance tax levied under division (A)(7) of section 5749.02 of 1604
the Revised Code shall be credited to the fund in accordance with 1605
those sections. Notwithstanding any section of the Revised Code 1606
relating to the distribution or crediting of fines for violations 1607
of the Revised Code, all fines imposed under section 1514.99 of 1608
the Revised Code shall be credited to the fund. 1609

Sec. 1514.12. (A) Explosives shall be used in a manner that 1610
prevents injury to persons and damage to public or private 1611
property that is located outside the area for which a permit was 1612
issued under section 1514.02 or 1514.021 of the Revised Code. 1613

(B) The ground vibration resulting from the use of explosives 1614
when measured at any dwelling, public or commercial building, 1615
school, church, or community or institutional building that is 1616
located outside the area for which a permit was issued under 1617
section 1514.02 or 1514.021 of the Revised Code and that is not 1618
owned by the operator shall not exceed the frequency-dependent 1619
particle velocity limits listed in the "report of investigations 1620

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8507, appendix B -- alternative blasting level criteria, (1980)," 1621
published by the former United States bureau of mines, or other 1622
limits established by rule. 1623

(C) The airblast resulting from the use of explosives when 1624
measured with a two hertz high-pass system at any location listed 1625
in division (B) of this section shall not exceed a level of one 1626
hundred thirty-three decibels. 1627

(D) On and after July 1, 2003, all blasting in surface mining 1628
shall be conducted by persons who are trained and competent in 1629
blasting as certified by the chief of the division of mineral 1630
resources management or a certifying authority approved by the 1631
chief. 1632

(E) The chief shall adopt, and may amend and rescind, rules 1633
in accordance with Chapter 119. of the Revised Code establishing 1634
requirements and standards governing all of the following: 1635

(1) Seismographic monitoring and alternate methods to prove 1636
compliance with the ground vibration limits established under 1637
division (B) of this section and the airblast limits established 1638
under division (C) of this section; 1639

(2) Protection of any building or structure not listed in 1640
division (B) of this section; 1641

(3) Training, examination, and certification of persons 1642
conducting blasting in surface mining and suspension or revocation 1643
of certifications; 1644

(4) Standard blast warning and all-clear signals; 1645

(5) Blasting records and flyrock reporting requirements; 1646

(6) Safety measures for blasting in surface mining. 1647

(F) The chief may adopt rules under this section that 1648
establish limits on the amount of ground vibration resulting from 1649
the use of explosives that is permissible when measured at the 1650

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locations described in division (B) of this section.

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

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

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

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(2) Replacement of water supplies.

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

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If the chief receives a written complaint, the chief 1682
immediately shall send a copy of the complaint to the operator, 1683
and the operator immediately shall respond by sending the chief a 1684
statement that explains how the operator resolved or will resolve 1685
the complaint. If the operator receives a written complaint, the 1686
operator immediately shall send to the chief a copy of the 1687
complaint and include a statement that explains how the operator 1688
resolved or will resolve the complaint. Not later than seventy-two 1689
hours after receipt of the complaint, the operator shall provide 1690
the owner a supply of water that is comparable, in quantity and 1691
quality, to the owner's water supply prior to the diminution, 1692
contamination, or interruption of the owner's water supply. The 1693
operator shall maintain that water supply until the operator 1694
provides a permanent replacement water supply to the owner under 1695
division (B)(3) of this section or until the division of mineral 1696
resources management completes the evaluation under division 1697
(B)(2) of this section, whichever is applicable. 1698

(2) A rebuttable presumption exists that the operation caused 1699
the diminution, contamination, or interruption of the owner's 1700
water supply. However, not later than fourteen days after receipt 1701
of the complaint, the operator may submit to the division 1702
information showing that the operation is not the proximate cause 1703
of the diminution, contamination, or interruption of the owner's 1704
water supply. The division shall evaluate the information 1705
submitted by the operator to determine if the presumption is 1706
rebutted. If the operator fails to rebut the presumption, the 1707
division immediately shall notify the operator that the operator 1708
failed to rebut the presumption. Not later than fourteen days 1709
after receipt of that notice, the operator shall provide the owner 1710
a permanent replacement water supply that is comparable, in 1711
quantity and quality, to the owner's water supply prior to the 1712
diminution, contamination, or interruption of the owner's water 1713

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supply. If the operator rebuts the presumption, the division 1714
immediately shall notify the operator that the operator rebutted 1715
the presumption, and, upon receipt of that notice, the operator 1716
may cease providing a supply of water to the owner under division 1717
(B)(1) of this section. 1718

(3) If, within fourteen days after receipt of the complaint, 1719
the operator does not submit to the division information showing 1720
that the operation is not the proximate cause of the diminution, 1721
contamination, or interruption of the owner's water supply, the 1722
operator shall provide the owner, not later than twenty-eight days 1723
after receipt of the complaint, a permanent replacement water 1724
supply that is comparable, in quantity and quality, to the owner's 1725
water supply prior to the diminution, contamination, or 1726
interruption of the owner's water supply. 1727

(4) The division may investigate a complaint under division 1728
(B) of this section. 1729

(C) If an owner of real property who obtains all or part of 1730
the owner's water supply for domestic, agricultural, industrial, 1731
or other legitimate use from ground water has a diminution, 1732
contamination, or interruption of that water supply and the 1733
owner's real property is not located within the projected cone of 1734
depression of a surface mining operation established under this 1735
section, the owner may submit a written complaint to the operator 1736
of that operation or to the chief informing the operator or the 1737
chief that there is a diminution, contamination, or interruption 1738
of the owner's water supply. The complaint shall include the 1739
owner's name, address, and telephone number. 1740

If the operator receives a written complaint, the operator 1741
immediately shall send the chief a copy of the complaint. If the 1742
chief receives a written complaint, the chief immediately shall 1743
send the operator a copy of the complaint. The chief shall 1744
investigate any complaint submitted under this division and, upon 1745

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completion of the investigation, immediately shall send the 1746
results of the investigation to the operator and to the owner that 1747
filed the complaint. 1748

An owner that submits a written complaint under this division 1749
may resolve the diminution, contamination, or interruption of the 1750
owner's water supply with the operator of that operation or may 1751
commence a civil action for that purpose. 1752

(D) An operator may request the chief to amend the plan of 1753
mining and reclamation filed with the application under section 1754
1514.02 of the Revised Code when a ground water user may affect 1755
the projected cone of depression established for the operation 1756
under division (A) of this section. The operator shall submit 1757
additional data that reflect the ground water user's impact on the 1758
ground water. The chief shall perform ground water modeling using 1759
the additional data and may establish a revised projected cone of 1760
depression for that operation. 1761

(E) This section shall not be construed as creating, 1762
modifying, or affecting any right, liability, or remedy of surface 1763
riparian owners. 1764

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 1765
section 1514.10 of the Revised Code may be fined not more than 1766
five thousand dollars plus not more than one thousand dollars per 1767
acre of land affected, and is responsible for achieving 1768
reclamation of the land as required pursuant to ~~Chapter 1514. of~~ 1769
~~the Revised Code~~ this chapter. 1770

(B) Whoever violates division (B) of section 1514.10 of the 1771
Revised Code may be fined not more than one thousand dollars per 1772
acre of land affected that is not under permit, and is responsible 1773
for achieving reclamation of the land as required pursuant to 1774
~~Chapter 1514. of the Revised Code~~ this chapter. 1775

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(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.

Sec. 1561.12. An applicant for any examination or certificate under this section shall, before being examined, register the applicant's name with the chief of the division of mineral resources management and file with the chief an affidavit as to all matters of fact establishing the applicant's right to receive the examination, a certificate of good character and temperate habits signed by at least three reputable citizens of the community in which the applicant resides, and a certificate from a reputable and disinterested physician as to the physical condition of such applicant showing that the applicant is physically capable of performing the duties of the office or position.

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Each applicant for examination for any of the following 1807
positions shall present evidence satisfactory to the chief that 1808
the applicant has been a resident and citizen of this state for 1809
two years next preceding the date of application: 1810

(A) An applicant for the position of deputy mine inspector of 1811
underground mines shall have had actual practical experience of 1812
not less than six years, at least two of which shall have been in 1813
the underground workings of mines in this state. In the case of an 1814
applicant who would inspect underground coal mines, the two years 1815
shall consist of actual practical experience in underground coal 1816
mines. In the case of an applicant who would inspect noncoal 1817
mines, the two years shall consist of actual practical experience 1818
in noncoal mines. In lieu of two years of the actual practical 1819
experience required, the chief may accept as the equivalent 1820
thereof a certificate evidencing graduation from an accredited 1821
school of mines or mining, after a four-year course of study, but 1822
such credit shall not apply as to the two years' actual practical 1823
experience required in the mines in this state. 1824

The applicant shall pass an examination as to the applicant's 1825
practical and technological knowledge of mine surveying, mining 1826
machinery, and appliances; the proper development and operation of 1827
mines; the best methods of working and ventilating mines; the 1828
nature, properties, and powers of noxious, poisonous, and 1829
explosive gases, particularly methane; the best means and methods 1830
of detecting, preventing, and removing the accumulation of such 1831
gases; the use and operation of gas detecting devices and 1832
appliances; first aid to the injured; and the uses and dangers of 1833
electricity as applied and used in, at, and around mines. Such 1834
applicant shall also hold a certificate for foreperson of gaseous 1835
mines issued by the chief. 1836

(B) An applicant for the position of deputy mine inspector of 1837
surface mines shall have had actual practical mining experience of 1838

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not less than six years, at least two of which shall have been in 1839
surface ~~coal~~ mines in this state. In lieu of two years of the 1840
actual practical experience required, the chief may accept as the 1841
equivalent thereof a certificate evidencing graduation from an 1842
accredited school of mines or mining, after a four-year course of 1843
study, but that credit shall not apply as to the two years' actual 1844
practical experience required in the ~~coal~~ mines in this state. The 1845
applicant shall pass an examination as to the applicant's 1846
practical and technological knowledge of surface mine surveying, 1847
machinery, and appliances; the proper development and operations 1848
of surface mines; first aid to the injured; and the use and 1849
dangers of explosives and electricity as applied and used in, at, 1850
and around surface mines. The applicant shall also hold a surface 1851
mine foreperson certificate issued by the chief. 1852

(C) An applicant for the position of electrical inspector 1853
shall have had at least five years' practical experience in the 1854
installation and maintenance of electrical circuits and equipment 1855
in mines, and the applicant shall be thoroughly familiar with the 1856
principles underlying the safety features of permissible and 1857
approved equipment as authorized and used in mines. 1858

The applicant shall be required to pass the examination 1859
required for deputy mine inspectors and an examination testing and 1860
determining the applicant's qualification and ability to 1861
competently inspect and administer the mining law that relates to 1862
electricity used in and around mines and mining in this state. 1863

(D) An applicant for the position of superintendent or 1864
assistant superintendent of rescue stations shall possess the same 1865
qualifications as those required for a deputy mine inspector. In 1866
addition, the applicant shall present evidence satisfactory to the 1867
chief that the applicant is sufficiently qualified and trained to 1868
organize, supervise, and conduct group training classes in first 1869
aid, safety, and rescue work. 1870

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

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

(F) An applicant for the position of gas storage well inspector shall possess the same qualifications as an applicant for the position of deputy mine inspector and shall have a practical knowledge and experience of and in the operation, location, drilling, maintenance, and abandonment of oil and gas wells, especially in coal or mineral bearing townships, and shall have a thorough knowledge of the latest and best method of plugging and sealing abandoned oil and gas wells.

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

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