

**As Reported by the Senate Energy, Natural Resources and
Environment Committee**

**124th General Assembly
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2001-2002**

Sub. S. B. No. 83

SENATORS Carnes, Robert Gardner

A B I L L

To amend sections 1514.01, 1514.02, 1514.021, 1514.03 to 1514.11, 1514.99, and 5749.02 and to enact sections 1514.022, 1514.023, 1514.024, 1514.071, 1514.072, 1514.12, and 1514.13 of the Revised Code to revise the statutes governing the surface and in-stream mining of minerals other than coal, to increase the severance tax on specified natural resources, and to require the Director of Natural Resources to conduct a study of the Mineral Resources Management's safety inspection program for noncoal surface mining.	1 2 3 4 5 6 7 8 9 10 11
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1514.01, 1514.02, 1514.021, 1514.03, 1514.04, 1514.05, 1514.06, 1514.07, 1514.08, 1514.09, 1514.10, 1514.11, 1514.99, and 5749.02 be amended and sections 1514.022, 1514.023, 1514.024, 1514.071, 1514.072, 1514.12, and 1514.13 of the Revised Code be enacted to read as follows:	12 13 14 15 16
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Sec. 1514.01. (A) <u>As used in this chapter:</u>	17
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<u>(A)</u> "Surface mining" means all or any part of a process followed in the production of minerals from the earth or from the	18 19
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surface of the land by surface excavation methods, such as open
pit mining, dredging, placering, or quarrying, and includes the
removal of overburden for the purpose of determining the location,
quantity, or quality of mineral deposits, and the incidental
removal of coal at a rate less than one-sixth the total weight of
minerals and coal removed during the year, but does not include:
test or exploration boring; mining operations carried out beneath
the surface by means of shafts, tunnels, or similar mine openings;
the extraction of minerals, other than coal, by a landowner for
~~his~~ the landowner's own noncommercial use where such material is
extracted and used in an unprocessed form on the same tract of
land; the extraction of minerals, other than coal, from borrow
pits for highway construction purposes, provided that the
extraction is performed under a bond, a contract, and
specifications that substantially provide for and require
reclamation practices consistent with the requirements of this
chapter; the removal of minerals incidental to construction work,
provided that the owner or person having control of the land upon
which the construction occurs, the contractor, or the construction
firm possesses a valid building permit; ~~or~~ the removal of minerals
to a depth of not more than five feet, measured from the highest
original surface elevation of the area to be excavated, where not
more than one acre of land is excavated during twelve successive
calendar months; or routine dredging of a watercourse for purely
navigational purposes during which materials are removed for
noncommercial purposes.

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

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

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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 83
aquifer or saturated zone that may result in the lowering of the 84
water level within the aquifer or saturated zone or a decline of 85
the potentiometric surface within that aquifer or saturated zone. 86

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

(K) "Cone of depression" means a depression or low point in 88
the water table or potentiometric surface of a body of ground 89
water that develops around a location from which ground water is 90
being withdrawn. 91

(L) "High water mark" means the line on the shore that is 92
established by the fluctuations of water and indicated by physical 93
characteristics such as a natural line impressed on the bank; 94
shelving; changes in the character of soil; destruction of 95
terrestrial vegetation; the presence of litter and debris; or 96
other appropriate means that consider the characteristics of the 97
surrounding area. 98

(M) "In-stream mining" means all or any part of a process 99
followed in the production of minerals from the bottom of the 100
channel of a watercourse that drains a surface area of more than 101
one hundred square miles. "In-stream mining" may be accomplished 102
by using any technique or by using surface excavation methods, 103
such as open pit mining, dredging, placering, or quarrying, and 104
includes the removal of overburden for the purpose of determining 105
the location, quantity, or quality of mineral deposits. "In-stream 106
mining" does not include either of the following: 107

(1) Routine dredging for purely navigational purposes during 108
which materials are removed for noncommercial purposes; 109

(2) The extraction of minerals, other than coal, by a 110
landowner for the landowner's own noncommercial use when the 111
material is extracted and used in an unprocessed form on the same 112
tract of land. 113

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For purposes of division (M) of this section, the number of 114
square miles of surface area that a watercourse drains shall be 115
determined by consulting the "gazetteer of Ohio streams," which is 116
a portion of the Ohio water plan inventory published in 1960 by 117
the division of water in the department of natural resources, or 118
its successor, if any. 119

(N) In provisions concerning in-stream mining, when the 120
context is appropriate, "land" is deemed to include an area of a 121
watercourse. 122

(O) "Watercourse" means any naturally occurring perennial or 123
intermittent stream, river, or creek flowing within a defined 124
stream bed and banks. 125

Sec. 1514.02. (A) After the dates the chief of the division 126
of mineral resources management prescribes by rule pursuant to 127
section 1514.08 of the Revised Code, but not later than July 1, 128
1977, nor earlier than July 1, 1975, no operator shall engage in 129
surface mining or conduct a surface mining operation without a 130
surface mining permit issued by the chief. 131

No person shall engage in in-stream mining or conduct an 132
in-stream mining operation without an in-stream mining permit 133
issued by the chief. However, a person who, on the effective date 134
of this amendment, holds a valid permit to conduct in-stream 135
mining that is issued under section 10 of the "Rivers and Harbors 136
Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as 137
amended, shall not be required to obtain an in-stream mining 138
permit from the chief under this section until the existing permit 139
expires. 140

An application for a surface or in-stream mining permit shall 141
be upon the form that the chief prescribes and provides and shall 142
contain all of the following: 143

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

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

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

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

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

~~(5)~~(6) A copy of the deed, lease, or other instrument that

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authorizes entry upon the land by the applicant or the applicant's 175
agents if surface rights in the land are not owned by the 176
applicant; 177

~~(6)~~(7) A statement of whether any surface or in-stream mining 178
permits or coal mining and reclamation permits are now held by the 179
applicant in this state and, if so, the numbers of the permits; 180
181

~~(7)~~(8) A statement of whether the applicant, any partner if 182
the applicant is a partnership, any officer or director if the 183
applicant is a corporation, or any other person who has a right to 184
control or in fact controls the management of the applicant or the 185
selection of officers, directors, or managers of the applicant has 186
ever had a surface or in-stream mining permit or coal mining and 187
reclamation permit issued by this or any other state suspended or 188
revoked or has ever forfeited a surface or in-stream mining or 189
coal mining and reclamation bond or cash, an irrevocable letter of 190
credit, or a security deposited in lieu of a bond; 191

~~(8)~~(9) A report of the results of test borings that the 192
operator has conducted on the area or otherwise has readily 193
available, including, to the extent that the information is 194
readily available to the operator, the nature and depth of 195
overburden and material underlying each mineral or coal deposit, 196
and the thickness and extent of each mineral or coal deposit. In 197
the case of an application for an in-stream mining permit, the 198
report additionally shall include sufficient information to show 199
the approximate depth to bedrock. All information relating to test 200
boring results submitted to the chief pursuant to this section 201
shall be kept confidential and not made a matter of public record, 202
except that the information may be disclosed by the chief in any 203
legal action in which the truthfulness of the information is 204
material. 205

~~(9)~~(10) A complete plan for surface or in-stream mining and 206

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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 plan⁷. 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 prior to the effective date of this amendment.

(c) Grade, contour, or terrace final slopes, wherever needed,
sufficient to achieve soil stability and control landslides,
erosion, and sedimentation. Highwalls will be permitted if they
are compatible with the future uses specified in the plan and
measures will be taken to ensure public safety. Where ponds,

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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.

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(j) During mining and reclamation, ensure that the effect of any reduction of the quantity of ground water is minimized; 270 271

~~(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. 272 273 274 275 276 277 278

~~(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. 279 280 281 282 283 284

~~(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; 285 286 287 288

~~(m)~~(n) During mining, detonate explosives in a manner that will prevent damage to adjoining property; 289 290

(o) In the case of in-stream mining, do all of the following: 291 292

(i) Limit access to the channel of a watercourse to a single point of entry on one bank of the watercourse; 293 294

(ii) Maintain riparian vegetation to the fullest extent possible; 295 296

(iii) Upon cessation of in-stream mining, stabilize and reclaim to the pre-mined condition the banks of a watercourse affected by in-stream mining. 297 298 299

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~~(10)~~(11) For any applicant, except an applicant for an 300
in-stream mining permit, who intends to extract less than ten 301
thousand tons of minerals per year and no incidental coal, a 302
current tax map, in triplicate and notarized, and the appropriate 303
United States geological survey seven and one-half minute 304
topographic map. Each copy shall bear the applicant's name and 305
shall identify the area of land to be affected corresponding to 306
the application. 307

~~(11)~~(12) For any applicant for a surface mining permit who 308
intends to extract ten thousand tons of minerals or more per year 309
or who intends to extract any incidental coal irrespective of the 310
tonnage of minerals intended to be mined, a map, in triplicate, on 311
a scale of not more than four hundred feet to the inch, or three 312
copies of an enlarged United States geological survey topographic 313
map on a scale of not more than four hundred feet to the inch. 314
Each application for an in-stream mining permit shall include such 315
a map regardless of the tons of minerals that the applicant 316
intends to extract. 317

The map shall comply with all of the following: 318

(a) Be prepared and certified by a professional engineer or 319
surveyor registered under Chapter 4733. of the Revised Code; 320

(b) Identify the area of land to be affected corresponding to 321
the application; 322

(c) Show the probable limits of subjacent and adjacent deep, 323
strip, ~~or~~ surface, or in-stream mining operations, whether active, 324
inactive, or mined out; 325

(d) Show the boundaries of the area of land to be affected 326
during the period of the permit and the area of land estimated to 327
be affected during the first year of operation, and name the 328
surface and mineral owners of record of the area and the owners of 329
record of adjoining surface properties; 330

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(e) Show the names and locations of all streams, creeks, or 331
other bodies of water, roads, railroads, utility lines, buildings, 332
cemeteries, and oil and gas wells on the area of land to be 333
affected and within five hundred feet of the perimeter of the 334
area; 335

(f) Show the counties, municipal corporations, townships, and 336
sections in which the area of land to be affected is located; 337

(g) Show the drainage plan on, above, below, and away from 338
the area of land to be affected, indicating the directional flow 339
of water, constructed drainways, natural waterways used for 340
drainage, and the streams or tributaries receiving or to receive 341
this discharge; 342

(h) Show the location of available test boring holes that the 343
operator has conducted on the area of land to be affected or 344
otherwise has readily available; 345

(i) Show the date on which the map was prepared, the north 346
direction and the quadrangle sketch, and the exact location of the 347
operation; 348

(j) Show the type, kind, location, and references of all 349
existing boundary, section corner, government, and other survey 350
monuments within the area to be affected and within five hundred 351
feet of the perimeter of the area. 352

The certification of the maps shall read: "I, the 353
undersigned, hereby certify that this map is correct, and shows to 354
the best of my knowledge and belief all of the information 355
required by the surface or in-stream mining laws, as applicable, 356
of the state." The certification shall be signed and attested 357
before a notary public. The chief may reject any map as incomplete 358
if its accuracy is not so certified and attested. 359

~~(12)~~(13) A certificate of public liability insurance issued 360
by an insurance company authorized to do business in this state or 361

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obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code covering all surface or in-stream mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts not less than the following:

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

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

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

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

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

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(17) A statement by the applicant certifying that the 393
applicant has communicated with the county engineer of the county 394
in which the proposed surface or in-stream mining operation will 395
be located regarding any streets and roads under the county 396
engineer's jurisdiction that will be used by vehicles entering and 397
leaving the proposed surface or in-stream mining operation; 398

(18) In the case of an application for an in-stream mining 399
permit, a hydraulic evaluation of the watercourse prepared by a 400
professional engineer registered under Chapter 4733. of the 401
Revised Code. The hydraulic evaluation shall include, without 402
limitation, all of the following: 403

(a) Soundings that depict the cross-sectional views of the 404
channel bottom of the watercourse and water elevations for the 405
watercourse; 406

(b) A profile of the channel bottom; 407

(c) An analysis of design flows and water surface profiles 408
for the watercourse prior to in-stream mining and the proposed 409
final mining condition; 410

(d) An analysis of the expected changes in the roughness 411
coefficient, resistance to water flow velocity, and hydraulic 412
gradient in the channel bottom due to the proposed mining; 413

(e) Any additional information that the chief requires in 414
order to evaluate the potential impact of in-stream mining on the 415
watercourse and to determine if any additional performance 416
standards are required to protect the environment and property 417
outside the limits of the operation as established in the permit. 418

(B) No permit application or amendment shall be approved by 419
the chief if the chief finds that the reclamation described in the 420
application will not be performed in full compliance with this 421
chapter or that there is not reasonable cause to believe that 422
reclamation as required by this chapter will be accomplished. 423

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

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

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

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

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

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dollars per year.

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

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

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

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

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deposited to assure satisfactory performance of the reclamation 488
measures required pursuant to this chapter, whichever occurs 489
earlier. 490

If the chief approves an application for an in-stream mining 491
permit, the order granting the permit shall authorize the person 492
to whom the permit is issued to engage as the operator of an 493
in-stream mining operation on the land described in the permit 494
during a period that shall expire two years after the date of 495
issuance of the permit, or on the date when the chief, after 496
inspection, orders the release of any remaining bond, cash, 497
irrevocable letters of credit, or certificates of deposit that 498
were deposited to ensure satisfactory performance of the 499
reclamation measures required under this chapter, whichever occurs 500
earlier. 501

(D) Before an operator engages in a surface or in-stream 502
mining operation on land not described in the operator's permit, 503
but that is contiguous to the land described in the operator's 504
permit, the operator shall file with the chief an application for 505
an amendment to the operator's permit. Before approving an 506
amendment, the chief shall require the information, maps, fees, 507
and amount, except as otherwise provided by rule, of the 508
performance bond as required for an original application under 509
this section and shall apply the same prohibitions and 510
restrictions applicable to land described in an original 511
application for a permit. An applicant for a significant amendment 512
to a permit, as "significant" is defined by rule, shall include a 513
copy of the advertisement that the applicant is required to have 514
published in accordance with section 1514.022 of the Revised Code. 515
If the chief disapproves the amendment, the chief shall state the 516
reasons for disapproval in the order disapproving the amendment. 517
Upon the approval of an amendment by the chief, the operator shall 518
be authorized to engage in surface mining on the land or in-stream 519

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mining in the watercourse described in the operator's original 520
permit plus the land or area of the watercourse described in the 521
amendment until the date when the permit expires, or when the 522
chief, after inspection, orders the release of any remaining 523
performance bond deposited to assure satisfactory performance of 524
the reclamation measures required pursuant to this chapter, 525
whichever occurs earlier. 526

(E) An operator, at any time and upon application therefor 527
and approval by the chief, may amend the plan of mining and 528
reclamation filed with the application for a permit in order to 529
change the reclamation measures to be performed, modify the 530
interval after mining within which reclamation measures will be 531
performed, change the sequence in which mining or reclamation will 532
occur at specific locations within the area affected, mine acreage 533
previously mined or reclaimed, or for any other purpose, provided 534
that the plan, as amended, includes measures that the chief 535
determines will be adequate to prevent damage to adjoining 536
property and to achieve the performance standards set forth in 537
division (A)(9)(10) of this section. An application for a 538
significant amendment to a plan, as "significant" is defined by 539
rule, shall include a copy of the advertisement that the applicant 540
is required to have published in accordance with section 1514.022 541
of the Revised Code. 542

The chief may propose one or more amendments to the plan in 543
writing, within ninety days after the fifth anniversary of the 544
date of issuance of ~~the~~ a surface mining permit and or within 545
ninety days after the first anniversary of the date of issuance of 546
an in-stream mining permit. The chief's proposal may be made upon 547
a finding of any of the following conditions after a complete 548
review of the plan and inspection of the area of land affected, 549
and the plan shall be so amended upon written concurrence in the 550
findings and approval of the amendments by the operator: 551

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(1) An alternate measure, in lieu of one previously approved 552
in the plan, will more economically or effectively achieve one or 553
more of the performance standards. 554

(2) Developments in reclamation technology make an alternate 555
measure to achieve one or more of the performance standards more 556
economical, feasible, practical, or effective. 557

(3) Changes in the use or development of adjoining lands 558
require changes in the intended future uses of the area of land 559
affected in order to prevent damage to adjoining property. 560

~~(F) The chief shall issue an order granting or denying an 561
operating permit or amendment to a permit or approving or denying 562
an amendment to the operator's plan of mining and reclamation 563
within ninety days after the filing of an application therefor. If 564
the chief fails to act within that period with respect to a 565
surface mining operation that existed prior to the initial date by 566
which the chief requires a permit to be obtained, the operator may 567
continue the operation until the chief issues an order denying a 568
permit for the operation, and if the operator elects to appeal the 569
order pursuant to section 1513.13 of the Revised Code, until the 570
reclamation commission affirms the order of the chief denying the 571
permit, and if the operator elects to appeal the order of the 572
commission pursuant to section 1513.14 of the Revised Code, until 573
the court of common pleas affirms the order~~ The holder of a 574
surface or in-stream mining permit who desires to transfer the 575
rights granted under the permit to another person at any time 576
during the term of the permit or its renewal shall file with the 577
chief an application for the transfer of the permit. The chief 578
shall issue an order approving or disapproving the transfer of the 579
permit in accordance with criteria and procedures established by 580
rule. 581

Sec. 1514.021. (A) A permit holder who wishes to continue 582

surface or in-stream mining operations after the expiration date 583
of the existing permit or renewal permit shall file with the chief 584
of the division of mineral resources management an application for 585
renewal of a surface or in-stream mining permit or renewal permit 586
at least ninety days before the expiration date of the existing 587
permit or renewal permit. The application shall be upon the form 588
that the chief prescribes and provides and shall be accompanied by 589
~~the a permit fees required under division (B) of section 1514.02~~ 590
~~of the Revised Code~~ renewal fee in the amount of one thousand 591
dollars. 592

(B) Upon receipt of an application for renewal and the permit 593
renewal fee under division (A) of this section, the chief shall 594
notify the applicant to submit a map that is a composite of the 595
information required to be contained in the most recent annual 596
report map under section 1514.03 of the Revised Code and of all 597
surface or in-stream mining and reclamation activities conducted 598
under the existing permit or renewal permit; the annual report 599
required under section 1514.03 of the Revised Code; in the case of 600
an applicant proposing a significant change to the plan of mining 601
and reclamation, as "significant" is defined by rule, a copy of 602
the advertisement that the applicant is required to have published 603
in accordance with section 1514.022 of the Revised Code; and 604
additional maps, plans, and revised or updated information that 605
the chief determines to be necessary for permit renewal. Within 606
sixty days after receipt of this notification, the applicant shall 607
submit all the required information to the chief. 608

(C)(1) Upon receipt of the information required under 609
division (B) of this section and except as otherwise provided in 610
division (C)(2) of this section, the chief ~~may~~ shall approve the 611
application for renewal and issue an order granting a renewal 612
permit ~~if~~ unless the chief finds that ~~both~~ any of the following 613
~~apply~~ applies: 614

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~~(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~~+~~. 615 616 617 618

~~(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. 619 620 621 622 623

(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. 624 625 626 627 628 629 630 631

(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. 632 633 634 635

(D) Within sixty days after receiving the information and permit renewal fees required under divisions (A) and (B) of this section, the chief shall approve the application for renewal and issue an order granting a renewal permit, issue an order denying the application, or notify the applicant that the time limit for issuing such an order has been extended. This extension of time shall not exceed sixty days. 636 637 638 639 640 641 642

(E) If an applicant for a renewal permit has complied with division (A) of this section, the applicant may continue surface or in-stream mining operations under the existing permit or 643 644 645

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renewal permit after its expiration date until the sixty-day 646
period for filing the information required by the chief under 647
division (B) of this section has expired or until the chief issues 648
an order under division (D) of this section denying the renewal 649
permit. 650

(F) A permit holder who fails to submit an application and 651
required permit renewal fees within the time prescribed by 652
division (A) of this section shall cease surface or in-stream 653
mining operations on the expiration date of the existing permit or 654
renewal permit. If such a permit holder then submits an 655
application for renewal and the permit renewal fees otherwise 656
required by division (A) of this section on or before the 657
thirtieth day after the expiration date of the expired permit or 658
renewal permit and provides the information required by the chief 659
under division (B) of this section within sixty days after being 660
notified of the information required under that division, the 661
permit holder need not submit the final map and report required by 662
section 1514.03 of the Revised Code until the later of thirty days 663
after the chief issues an order denying the application for 664
renewal or thirty days after the chief's order is affirmed upon 665
appeal under section 1513.13 or 1513.14 of the Revised Code. An 666
applicant under this division who fails to provide the information 667
required by the chief under division (B) of this section within 668
the prescribed time period shall submit the final map and report 669
required by section 1514.03 of the Revised Code within thirty days 670
after the expiration of that prescribed period. 671

(G) If the chief issues an order denying an application for 672
renewal of a permit or renewal permit after the expiration date of 673
the permit, the permit holder shall cease surface or in-stream 674
mining operations immediately and, within thirty days after the 675
issuance of the order, shall submit the final report and map 676
required under section 1514.03 of the Revised Code. The chief 677

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

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

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

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

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

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

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

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

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

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as "significant" is defined by rule;

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

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

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

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

Upon receiving the application and advertisement, the chief shall designate a location at which the application will be available for public inspection and shall assign to the application an application identification number. When the chief determines that the application is substantially complete, the chief shall notify the applicant of the determination. At that time, the applicant shall place the advertisement, together with the application identification number and the notice of the location at which the application will be available for

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inspection, in a newspaper of general circulation in the locality
of the operation or proposed operation at least once a week for
four consecutive weeks.

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

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

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

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objections from the agencies after that date if the chief 771
considers doing so to be in the public interest. The chief 772
immediately shall transmit comments or objections to the applicant 773
and shall make them available to the public at the same location 774
at which the application is available for inspection. 775

(D) Divisions (B) and (C) of this section do not apply if a 776
plan of zoning has been adopted for the area that includes the 777
location at which the operation is conducted or is proposed to be 778
conducted and either of the following applies: 779

(1) The plan of zoning allows mining at the location at which 780
the mining operation is or is proposed to be conducted. 781

(2) A zoning variance or conditional use certificate for a 782
mining operation, for which public notice and opportunity for 783
comment have been provided, has been received within three hundred 784
sixty-five days prior to submittal of an application. In such a 785
situation, an applicant shall provide the chief with a copy of the 786
notice, certified by the publisher, that was previously published. 787

Sec. 1514.023. Nothing in this chapter or rules adopted under 788
it shall be construed to prevent any county, township, or 789
municipal corporation from enacting, adopting, or enforcing zoning 790
resolutions or ordinances. However, the chief of the division of 791
mineral resources management shall not enforce such zoning 792
resolutions or ordinances. 793

Sec. 1514.024. A local authority may enter into an agreement 794
with the operator of a surface or in-stream mining operation or of 795
a proposed surface or in-stream mining operation for the 796
improvement of roads under the jurisdiction of that local 797
authority that may be affected by the operation or for other 798
improvements within the jurisdiction of that local authority. 799
However, nothing in this section requires the surface or in-stream 800

mining operator to enter into such an agreement.

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

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

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Each annual report for an in-stream mining operation shall include a statement of the total tonnage removed by in-stream

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

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

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

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acreage for which the bond was filed for the preceding year 864
exceeds the acreage actually affected, or by adding an amount of 865
~~five hundred one thousand~~ dollars per excess acre affected if the 866
acreage actually affected exceeds the acreage for which bond was 867
filed for the preceding year. 868

Within thirty days after the expiration of the surface or 869
in-stream mining permit, or completion or abandonment of the 870
operation, whichever occurs earlier, the operator shall submit a 871
final report containing the same information required in an annual 872
report, but covering the time from the last annual report to the 873
expiration of the permit, or completion or abandonment of the 874
operation, whichever occurs earlier. 875

Each final report shall include a map indicating the location 876
of the area of land affected during the period of the report and 877
the location of the total area of land affected under the permit. 878
The map shall be prepared in accordance with division (A)(~~10~~)(11) 879
or (~~11~~)(12) of section 1514.02 of the Revised Code, as 880
appropriate. 881

In the case of a final report for an in-stream mining 882
operation, the map also shall include the information required 883
under division (A)(18) of section 1514.02 of the Revised Code. 884

If the final report and certified map, as verified by the 885
chief, show that the number of acres affected under the permit is 886
larger than the number of acres for which the operator has paid an 887
acreage fee or filed a performance bond, upon notification by the 888
chief, the operator shall pay an additional acreage fee in the 889
amount of ~~thirty~~ seventy-five dollars multiplied by the difference 890
between the number of acres affected under the permit and the 891
number of acres for which the operator has paid an acreage fee and 892
shall file an additional performance bond in the amount, unless 893
otherwise provided by rule, of ~~five hundred one thousand~~ dollars 894
multiplied by the difference between the number of acres affected 895

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under the permit and the number of acres for which the operator 896
has filed bond. 897

If the final report and certified map, as verified by the 898
chief, show that the number of acres affected under the permit is 899
smaller than the number of acres for which the operator has filed 900
a performance bond, the chief shall order release of the excess 901
bond. However, the chief shall retain a performance bond in a 902
minimum amount of ~~two~~ ten thousand dollars irrespective of the 903
number of acres affected under the permit. The release of the 904
excess bond shall be in an amount, unless otherwise provided by 905
rule, equal to ~~five hundred one thousand~~ dollars multiplied by the 906
difference between the number of acres affected under the permit 907
and the number of acres for which the operator has filed bond. 908

The fees collected pursuant to this section and section 909
1514.02 of the Revised Code shall be deposited with the treasurer 910
of state to the credit of the surface mining fund created under 911
section 1514.06 of the Revised Code. 912

If upon inspection the chief finds that any filing fee, 913
acreage fee, performance bond, or part thereof is not paid when 914
due or is paid on the basis of false or substantially inaccurate 915
reports, the chief may request the attorney general to recover the 916
unpaid amounts that are due the state, and the attorney general 917
shall commence appropriate legal proceedings to recover the unpaid 918
amounts. 919

Sec. 1514.04. Upon receipt of notification from the chief of 920
the division of mineral resources management of the chief's intent 921
to issue an order granting a surface or in-stream mining permit to 922
the applicant, the applicant shall file a surety bond, cash, an 923
irrevocable letter of credit, or certificates of deposit in the 924
amount, unless otherwise provided by rule, of ~~two ten thousand~~ 925
dollars plus one thousand dollars, ~~or five hundred dollars~~ per 926

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acre of land to be affected, ~~whichever is greater~~. Upon receipt of 927
notification from the chief of the chief's intent to issue an 928
order granting an amendment to a surface or in-stream mining 929
permit, the applicant shall file a surety bond, cash, an 930
irrevocable letter of credit, or certificates of deposit in the 931
amount, unless otherwise provided by rule, of ~~five hundred one~~ 932
thousand dollars per acre of land to be affected. 933

In the case of a surface mining permit, the bond shall be 934
filed for the number of acres estimated to be affected during the 935
first year of operation under the permit. In the case of an 936
amendment to a surface mining permit, the bond shall be filed for 937
the number of acres estimated to be affected during the balance of 938
the period until the next anniversary date of the permit. 939

In the case of an in-stream mining permit, the bond shall be 940
filed for the number of acres of land within the limits of the 941
in-stream mining permit for the entire permit period. In the case 942
of an amendment to an in-stream mining permit, the bond shall be 943
filed for the number of any additional acres of land to be 944
affected within the limits of the in-stream mining permit. 945

A surety bond filed pursuant to this section and sections 946
1514.02 and 1514.03 of the Revised Code shall be upon the form 947
that the chief prescribes and provides and shall be signed by the 948
operator as principal and by a surety company authorized to 949
transact business in the state as surety. The bond shall be 950
payable to the state and shall be conditioned upon the faithful 951
performance by the operator of all things to be done and performed 952
by the operator as provided in this chapter and the rules and 953
orders of the chief adopted or issued pursuant thereto. 954

The operator may deposit with the chief, in lieu of a surety 955
bond, cash in an amount equal to the surety bond as prescribed in 956
this section, an irrevocable letter of credit or negotiable 957

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

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

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becomes due. If certificates deposited with and in the possession 990
of the treasurer of state mature or are called for payment by the 991
issuer thereof, the treasurer of state, at the request of the 992
operator who deposited them, shall convert the proceeds of the 993
redemption or payment of the certificates into such other 994
negotiable certificates of deposit issued by any bank organized or 995
transacting business in this state, such other certificates of 996
deposit issued by any savings and loan association, or cash, as 997
may be designated by the operator. 998

A governmental agency, as defined in division (A) of section 999
1514.022 of the Revised Code, or a board or commission that 1000
derives its authority from a governmental agency shall not require 1001
a surface or in-stream mining operator to file a surety bond or 1002
any other form of financial assurance for the reclamation of land 1003
to be affected by a surface or in-stream mining operation 1004
authorized under this chapter. 1005

Sec. 1514.05. (A) At any time within the period allowed an 1006
operator by section 1514.02 of the Revised Code to reclaim an area 1007
of land affected by surface or in-stream mining, the operator may 1008
file a request, on a form provided by the chief of the division of 1009
mineral resources management, for inspection of the area of land 1010
upon which a phase of the reclamation, other than any required 1011
planting, is completed. The For purposes of inspections and 1012
subsequent releases of performance bonds or cash, irrevocable 1013
letters of credit, or certificates of deposit deposited in lieu of 1014
bonds under this section, reclamation shall be considered to occur 1015
in two phases. The first phase involves grading, contouring, 1016
terracing, resoiling, and initial planting. The second phase 1017
involves the establishment of vegetative cover together with the 1018
maintenance and the completion of all reclamation required under 1019
this chapter or rules adopted under it. 1020

A request for inspection at the completion of a phase of 1021

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reclamation shall include all of the following: 1022

(1) The location of the area and number of acres; 1023

(2) The permit number; 1024

(3) The amount of performance bond on deposit at the time of 1025
the request to ensure reclamation of the area; 1026

(4) A map showing the location of the acres reclaimed, 1027
prepared and certified in accordance with division (A)~~(10)~~(11) or 1028
~~(11)~~(12) of section 1514.02 of the Revised Code, as appropriate. 1029
In the case of an in-stream mining operation, the map also shall 1030
include the information required under division (A)(18) of section 1031
1514.02 of the Revised Code. 1032

In addition, a request for inspection of the second phase of 1033
reclamation shall include a description of the type and date of 1034
any required planting and a statement regarding the degree of 1035
success of the growth. 1036

(B) The chief shall make an inspection and evaluation of the 1037
reclamation of the area of land for which ~~the a~~ request was 1038
submitted within ninety days after receipt of the request or, if 1039
the operator fails to complete the reclamation or file the request 1040
as required, as soon as the chief learns of the default. 1041
Thereupon, if the chief approves the first phase of the 1042
~~reclamation other than any required planting~~ as meeting the 1043
requirements of this chapter, rules adopted thereunder, any orders 1044
issued during the mining or reclamation, and the specifications of 1045
the plan for mining and reclaiming, the chief shall issue an order 1046
to the operator and the operator's surety releasing them from 1047
liability for ~~one-half the total amount~~ the applicable percentage 1048
specified in this division of their surety bond on deposit to 1049
ensure reclamation for the area upon which reclamation is 1050
completed. If the chief approves the second phase of the 1051
reclamation, the chief shall order release of the remaining 1052

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performance bond, after completing the inspection and evaluation, 1053
in the same manner as in the case of approval of the first phase 1054
of reclamation, and the treasurer of state shall proceed as in 1055
that case. 1056

On approval of the first phase of reclamation, the chief 1057
shall release seventy-five per cent of the amount of the surety 1058
bond on deposit. On approval of the second phase of reclamation, 1059
the chief shall release the remaining amount of the surety bond 1060
that originally was on deposit. 1061

If the operator has deposited cash, an irrevocable letter of 1062
credit, or certificates of deposit in lieu of a surety bond to 1063
ensure reclamation, the chief shall issue an order to the operator 1064
releasing ~~one-half of the total~~ amount so held in the same manner 1065
and in the same percentages that apply to the release of a surety 1066
bond and promptly shall transmit a certified copy of the order to 1067
the treasurer of state. Upon presentation of the order to the 1068
treasurer of state by the operator to whom it was issued, or by 1069
the operator's authorized agent, the treasurer of state shall 1070
deliver to the operator or the operator's authorized agent the 1071
cash, irrevocable letter of credit, or certificates of deposit 1072
designated in the order. 1073

(C) If the chief does not approve a phase of the reclamation 1074
~~other than any required planting,~~ the chief shall notify the 1075
operator by certified mail. The notice shall be an order stating 1076
the reasons for unacceptability, ordering further actions to be 1077
taken, and setting a time limit for compliance. If the operator 1078
does not comply with the order within the time limit specified, 1079
the chief may order an extension of time for compliance after 1080
determining that the operator's noncompliance is for good cause, 1081
resulting from developments partially or wholly beyond the 1082
operator's control. If the operator complies within the time limit 1083
or the extension of time granted for compliance, the chief shall 1084

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order release of the performance bond in the same manner as in the 1085
case of approval of reclamation ~~other than planting~~ by the chief, 1086
and the treasurer of state shall proceed as in that case. If the 1087
operator does not comply within the time limit and the chief does 1088
not order an extension, or if the chief orders an extension of 1089
time and the operator does not comply within the extension of time 1090
granted for compliance, the chief shall issue another order 1091
declaring that the operator has failed to reclaim and, if the 1092
operator's permit has not already expired or been revoked, 1093
revoking the operator's permit. The chief shall thereupon proceed 1094
under division ~~(C)~~(D) of this section. 1095

~~(B) At any time within the period allowed an operator by 1096
section 1514.02 of the Revised Code to reclaim an area affected by 1097
surface mining, the operator may file a request, on a form 1098
provided by the chief, for inspection of the area of land upon 1099
which all reclamation, including the successful establishment of 1100
any required planting, is completed. The request shall include all 1101
of the following: 1102~~

~~(1) The location of the area and number of acres; 1103~~

~~(2) The permit number; 1104~~

~~(3) The remaining amount of performance bond on deposit to 1105
ensure reclamation of the area; 1106~~

~~(4) The type and date of any required planting of vegetative 1107
cover and the degree of success of growth; 1108~~

~~(5) A map showing the location of the acres reclaimed, 1109
prepared and certified in accordance with division (A)(10) or (11) 1110
of section 1514.02 of the Revised Code, as appropriate. 1111~~

~~The chief shall make an inspection and evaluation of the 1112
reclamation of the area of land for which the request was 1113
submitted within ninety days after receipt of the request or, if 1114
the operator fails to complete the reclamation or file the request 1115~~

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~~as required, as soon as the chief learns of the default.~~ 1116
~~Thereupon, if the chief finds that the reclamation meets the~~ 1117
~~requirements of this chapter, rules adopted thereunder, any orders~~ 1118
~~issued during the mining and reclamation, and the specifications~~ 1119
~~of the plan for mining and reclaiming and decides to release any~~ 1120
~~remaining performance bond on deposit to ensure reclamation of the~~ 1121
~~area upon which reclamation is completed, within ten days of~~ 1122
~~completing the inspection and evaluation, the chief shall order~~ 1123
~~release of the remaining performance bond in the same manner as in~~ 1124
~~the case of approval of reclamation other than planting, and the~~ 1125
~~treasurer of state shall proceed as in that case.~~ 1126

~~If the chief does not approve the reclamation performed by~~ 1127
~~the operator, the chief shall notify the operator by certified~~ 1128
~~mail within ninety days of the filing of the application for~~ 1129
~~inspection or of the date when the chief learns of the default.~~ 1130
~~The notice shall be an order stating the reasons for~~ 1131
~~unacceptability, ordering further actions to be taken, and setting~~ 1132
~~a time limit for compliance. If the operator does not comply with~~ 1133
~~the order within the time limit specified, the chief may order an~~ 1134
~~extension of time for compliance after determining that the~~ 1135
~~operator's noncompliance is for good cause, resulting from~~ 1136
~~developments partially or wholly beyond the operator's control. If~~ 1137
~~the operator complies within the time limit or the extension of~~ 1138
~~time granted for compliance, the chief shall order release of the~~ 1139
~~remaining performance bond in the same manner as in the case of~~ 1140
~~approval of reclamation by the chief, and the treasurer of state~~ 1141
~~shall proceed as in that case. If the operator does not comply~~ 1142
~~within the time limit and the chief does not order an extension,~~ 1143
~~or if the chief orders an extension of time and the operator does~~ 1144
~~not comply within the extension of time granted for compliance,~~ 1145
~~the chief shall make another order declaring that the operator has~~ 1146
~~failed to reclaim and, if the operator's permit has not already~~ 1147

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~~expired or been revoked, revoking the operator's permit. The chief
then shall proceed under division (C) of this section.~~

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

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

If the surety chooses to perform, it shall arrange for work
to begin within thirty days of the day on which it notifies the
chief of its decision. If the surety completes the work as

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

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

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

Sec. 1514.06. (A) There is hereby created in the state
treasury the surface mining fund. All cash that becomes the
property of the state pursuant to section 1514.05 of the Revised
Code shall be deposited in the fund, and expenditures from the

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fund shall be made by the chief of the division of mineral 1211
resources management only for the purpose of reclaiming areas of 1212
land affected by surface or in-stream mining operations on which 1213
an operator has defaulted. 1214

(B) Expenditures of moneys from the fund, except as otherwise 1215
provided by this section, shall be made pursuant to contracts 1216
entered into by the chief with persons who agree to furnish all of 1217
the materials, equipment, work, and labor, as specified and 1218
provided in the contracts, for the prices stipulated therein. With 1219
the approval of the director of natural resources, the chief may 1220
reclaim the land in the same manner as the chief required of the 1221
operator who defaulted. Each contract awarded by the chief shall 1222
be awarded to the lowest responsive and responsible bidder, in 1223
accordance with section 9.312 of the Revised Code, after sealed 1224
bids are received, opened, and published at the time and place 1225
fixed by the chief. The chief shall publish notice of the time and 1226
place at which bids will be received, opened, and published, at 1227
least once at least ten days before the date of the opening of the 1228
bids, in a newspaper of general circulation in the county in which 1229
the area of land to be reclaimed under the contract is located. 1230
If, after so advertising for bids, no bids are received by the 1231
chief at the time and place fixed for receiving them, the chief 1232
may advertise again for bids, or, if the chief considers the 1233
public interest will be best served, the chief may enter into a 1234
contract for the reclamation of the area of land without further 1235
advertisement for bids. The chief may reject any or all bids 1236
received and again publish notice of the time and place at which 1237
bids for contracts will be received, opened, and published. 1238

(C) With the approval of the director, the chief, without 1240
advertising for bids, may enter into a contract with the 1241
landowner, a surface or in-stream mine operator or coal mine 1242

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operator mining under a current, valid permit issued under this 1243
chapter or Chapter 1513. of the Revised Code, or a contractor 1244
hired by a surety to complete reclamation, to carry out 1245
reclamation on land affected by surface or in-stream mining 1246
operations on which an operator has defaulted. 1247

(D) With the approval of the director, the chief may carry 1248
out all or part of the reclamation work on land affected by 1249
surface or in-stream mining operations on which the operator has 1250
defaulted using the employees and equipment of any division of the 1251
department of natural resources. 1252

(E) The chief shall require every contractor performing 1253
reclamation work under this section to pay workers at the greater 1254
of their regular rate of pay, as established by contract, 1255
agreement, or prior custom or practice, or the average wage rate 1256
paid in this state for the same or similar work, as determined by 1257
the chief under section 1513.02 of the Revised Code. 1258

(F) Each contract entered into by the chief under this 1259
section shall provide only for the reclamation of land affected by 1260
the surface or in-stream mining operation or operations of one 1261
operator and not reclaimed by the operator as required by this 1262
chapter. If there is money in the fund derived from the 1263
performance bond deposited with the chief by one operator to 1264
ensure the reclamation of two or more areas of land affected by 1265
the surface or in-stream mining operation or operations of one 1266
operator and not reclaimed by the operator as required by this 1267
chapter, the chief may award a single contract for the reclamation 1268
of all such areas of land. 1269

(G) The cost of the reclamation work done under this section 1270
on each area of land affected by surface or in-stream mining 1271
operations on which an operator has defaulted shall be paid out of 1272
the money in the fund derived from the performance bond that was 1273
deposited with the chief to ensure the reclamation of that area of 1274

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land. If the amount of money is not sufficient to pay the cost of
doing all of the reclamation work on the area of land that the
operator should have done, but failed to do, the chief may expend
from the reclamation forfeiture fund created in section 1513.18 of
the Revised Code or the surface mining fund created in this
section the amount of money needed to complete reclamation to the
standards required by this chapter. The operator is liable for
that expense in addition to any other liabilities imposed by law.
At the request of the chief, the attorney general shall bring an
action against the operator for the amount of the expenditures
from either fund. Moneys so recovered shall be deposited in the
appropriate fund from which the expenditures were made.

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

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

If the chief finds that an operator has violated any
requirement of this chapter, failed to perform any measure set
forth in the approved plan of mining and reclamation that is
necessary to prevent damage to adjoining property or to achieve,
or has otherwise failed to achieve, the performance standards of

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division (A)(9)(10) of section 1514.02 of the Revised Code, or 1307
caused damage to adjoining property, the chief may issue orders 1308
directing the operator to cease violation, perform such measures, 1309
achieve such standards, or prevent or abate off-site damage. The 1310
order shall identify the operation where the violation occurs, the 1311
specific requirement violated, measure not performed, standard not 1312
achieved, or off-site damage caused, and where practicable 1313
prescribe what action the operator may take to comply with the 1314
order. The chief shall fix and set forth in the order a reasonable 1315
date or time by which the operator shall comply, and the order 1316
shall state that the chief may revoke the operator's permit if the 1317
order is not complied with by ~~such~~ that date or time. If upon ~~such~~ 1318
that date or time the chief finds that the operator has not 1319
complied with the order, the chief may issue an order revoking the 1320
operator's permit. 1321

Sec. 1514.071. (A) In addition to any other penalties 1322
established under this chapter, the chief of the division of 1323
mineral resources management may assess a civil penalty against 1324
any person who fails to comply with an order issued by the chief 1325
under section 1514.07 of the Revised Code by the date specified in 1326
the order or as subsequently extended by the chief. 1327

(B) Civil penalties assessed under this section shall not 1328
exceed one thousand dollars for each occurrence of noncompliance 1329
with an order. Each day of continuing noncompliance, up to a 1330
maximum of thirty days, may be deemed a separate occurrence for 1331
purposes of penalty assessments. In determining the amount of the 1332
assessment, the chief shall consider the seriousness of the 1333
noncompliance, the effect of the noncompliance, and the operator's 1334
history of noncompliance. 1335

(C) Upon issuance of a notice of noncompliance with an order, 1336
the chief shall inform the person to whom the notice of 1337
noncompliance is issued of the amount of any civil penalty to be 1338

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assessed and provide an opportunity for an adjudicatory hearing
with the reclamation commission pursuant to section 1514.09 of the
Revised Code. The person charged with the penalty shall have
thirty days from receipt of the assessment to pay the penalty in
full or, if the person wishes to contest the amount of the
penalty, file a petition for review of the assessment with the
commission pursuant to section 1514.09 of the Revised Code and
forward the amount of the penalty to the secretary of the
commission as required by this division. Failure to forward the
money to the secretary within thirty days after the chief informs
the person of the amount of the penalty shall result in a waiver
of all legal rights to contest the amount of the penalty.

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

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

(1) If it is determined that the amount of the penalty should
be reduced, within thirty days, remit the appropriate amount of
the penalty to the person, with interest, and forward any balance
of the penalty, with interest, to the chief for deposit in the
surface mining fund created in section 1514.06 of the Revised Code
for reclamation of abandoned surface or in-stream mining
operations in the state;

(2) If the penalty was not reduced, forward the entire
penalty, with interest, to the chief for deposit in the surface

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mining fund for reclamation of abandoned surface or in-stream 1371
mining operations in the state. 1372

(D) Civil penalties owed under this section may be recovered 1373
in a civil action brought by the attorney general upon the request 1374
of the chief. 1375

Sec. 1514.072. Whenever a person fails to comply with an 1376
order issued by the chief of the division of mineral resources 1377
management, the chief, in addition to any other remedy under this 1378
chapter, may request the attorney general to institute a civil 1379
action to compel compliance with the order, including a permanent 1380
or temporary injunction, a restraining order, or any other 1381
appropriate order, in the court of common pleas of the county in 1382
which the noncompliance is occurring or has occurred. The court 1383
shall grant the relief requested upon a demonstration that 1384
noncompliance with an order of the chief is occurring or has 1385
occurred. 1386

Sec. 1514.08. (A) The chief of the division of mineral 1387
resources management may adopt, amend, and rescind rules in 1388
accordance with Chapter 119. of the Revised Code in order to 1389
prescribe procedures for submitting applications for permits, 1390
amendments to permits, and amendments to plans of mining and 1391
reclamation; filing annual reports and final reports; requesting 1392
inspection and approval of reclamation; paying permit and filing 1393
fees; and filing and obtaining the release of performance bonds 1394
deposited with the state. For the purpose of preventing damage to 1395
adjoining property or achieving one or more of the performance 1396
standards established in division (A)(9)(10) of section 1514.02 of 1397
the Revised Code, the chief may establish classes of mining 1398
industries, based upon industrial categories, combinations of 1399
minerals produced, and geological conditions in which surface or 1400
in-stream mining operations occur, and may prescribe different 1401

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rules consistent with the performance standards for each class. 1402
For the purpose of apportioning the workload of the division of 1403
mineral resources management among the quarters of the year, the 1404
rules may require that applications for permits and annual reports 1405
be filed in different quarters of the year, depending upon the 1406
county in which the operation is located. 1407

(B) The chief shall adopt rules under this section that do 1408
all of the following: 1409

(1) With respect to in-stream mining, determine periods of 1410
low flow, which are the only time periods during which in-stream 1411
mining is allowed, and develop and implement any criteria, in 1412
addition to the criteria established in section 1514.02 of the 1413
Revised Code, that the chief determines are necessary for the 1414
permitting of in-stream mining; 1415

(2) Establish criteria and procedures for approving or 1416
disapproving the transfer of a surface or in-stream mining permit 1417
under division (F) of section 1514.02 of the Revised Code; 1418

(3) Define when any of the following may be considered to be 1419
"significant" for purposes of section 1514.022 of the Revised 1420
Code: 1421

(a) An amendment to a permit issued under section 1514.02 of 1422
the Revised Code for a surface or in-stream mining operation; 1423

(b) An amendment to the plan of mining and reclamation that 1424
must be filed with an application for either permit under section 1425
1514.02 of the Revised Code; 1426

(c) Changes to that plan of mining and reclamation that are 1427
proposed in a permit renewal application filed under section 1428
1514.021 of the Revised Code. 1429

In defining "significant," the chief shall focus on changes 1430
that increase the likelihood that the mining operation may have a 1431

negative impact on the public.

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

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

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

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person's term shall be concurrent with that of the representative
of the coal strip mine operators.

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

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

Sec. 1514.10. No person shall:

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

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

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

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

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(D) Fail to perform any measure set forth in the approved 1493
plan of mining and reclamation that is necessary to prevent damage 1494
to adjoining property or to achieve a performance standard 1495
required in division (A)(9)(10) of section 1514.02 of the Revised 1496
Code, or violate any other requirement of this chapter, a rule 1497
adopted thereunder, or an order of the chief; 1498

(E) Conduct surface excavations of minerals within any of the 1499
following: 1500

(1) One hundred twenty feet horizontal distance outward from 1501
the highwater mark on each bank of an area designated as a wild, 1502
scenic, or recreational river area under sections 1517.14 to 1503
1517.18 of the Revised Code or of a portion of a river designated 1504
as a component of the national wild and scenic river system under 1505
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1506
1274, as amended; 1507

(2) Seventy-five feet horizontal distance outward from the 1508
highwater mark on each bank of a watercourse that drains a surface 1509
area of more than one hundred square miles; 1510

(3) Fifty feet horizontal distance outward from the highwater 1511
mark on each bank of a watercourse that drains a surface area of 1512
more than twenty-five square miles, but fewer than one hundred 1513
square miles unless a variance is obtained under rules adopted by 1514
the chief. 1515

(F) Conduct any surface mining activity within any of the 1516
following: 1517

(1) Seventy-five feet horizontal distance outward from the 1518
highwater mark on each bank of an area designated as a wild, 1519
scenic, or recreational river area under sections 1517.14 to 1520
1517.18 of the Revised Code or of a portion of a river designated 1521
as a component of the national wild and scenic river system under 1522
the "Wild and Scenic Rivers Act," 82 Stat. 906 (1968), 16 U.S.C. 1523

1274, as amended;

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

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

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

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

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

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

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

Code;

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

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

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

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

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1514.06 of the Revised Code and may enter into contracts and 1586
perform work in accordance with that section. 1587

Fees collected under sections 1514.02 and 1514.03 of the 1588
Revised Code, one-half of the moneys collected from the severance 1589
taxes levied under divisions (A)(3) and (4) of section 5749.02 of 1590
the Revised Code, and all of the moneys collected from the 1591
severance tax levied under division (A)(7) of section 5749.02 of 1592
the Revised Code shall be credited to the fund in accordance with 1593
those sections. Notwithstanding any section of the Revised Code 1594
relating to the distribution or crediting of fines for violations 1595
of the Revised Code, all fines imposed under section 1514.99 of 1596
the Revised Code shall be credited to the fund. 1597

Sec. 1514.12. (A) Explosives shall be used in a manner that 1598
prevents injury to persons and damage to public or private 1599
property that is located outside the area for which a permit was 1600
issued under section 1514.02 or 1514.021 of the Revised Code. 1601

(B) The ground vibration resulting from the use of explosives 1602
when measured at any dwelling, public or commercial building, 1603
school, church, or community or institutional building that is 1604
located outside the area for which a permit was issued under 1605
section 1514.02 or 1514.021 of the Revised Code and that is not 1606
owned by the operator shall not exceed the frequency-dependent 1607
particle velocity limits listed in the "report of investigations 1608
8507, appendix B -- alternative blasting level criteria, (1980)," 1609
published by the former United States bureau of mines, or other 1610
limits established by rule. 1611

(C) The airblast resulting from the use of explosives when 1612
measured with a two hertz high-pass system at any location listed 1613
in division (B) of this section shall not exceed a level of one 1614
hundred thirty-three decibels. 1615

(D) On and after July 1, 2003, all blasting in surface mining 1616

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shall be conducted by persons who are trained and competent in
blasting as certified by the chief of the division of mineral
resources management or a certifying authority approved by the
chief.

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

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

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

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

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

(5) Blasting records and flyrock reporting requirements;

(6) Safety measures for blasting in surface mining.

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

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

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

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

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

(2) Replacement of water supplies.

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

The operator immediately shall send to the chief a copy of
the complaint and include a statement that explains how the
operator resolved or will resolve the complaint. Not later than
seventy-two hours after receipt of the complaint, the operator
shall provide the owner a supply of water that is comparable, in
quantity and quality, to the owner's water supply prior to the
diminution, contamination, or interruption of the owner's water
supply. The operator shall maintain that water supply until the

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operator provides a permanent replacement water supply to the
owner under division (B)(3) of this section or until the division
of mineral resources management completes the evaluation under
division (B)(2) of this section, whichever is applicable.

(2) A rebuttable presumption exists that the operation caused
the diminution, contamination, or interruption of the owner's
water supply. However, not later than fourteen days after receipt
of the complaint, the operator may submit to the division
information showing that the operation is not the proximate cause
of the diminution, contamination, or interruption of the owner's
water supply. The division shall evaluate the information
submitted by the operator to determine if the presumption is
rebutted. If the operator fails to rebut the presumption, the
division immediately shall notify the operator that the operator
failed to rebut the presumption. Not later than fourteen days
after receipt of that notice, the operator shall provide the owner
a permanent replacement water supply that is comparable, in
quantity and quality, to the owner's water supply prior to the
diminution, contamination, or interruption of the owner's water
supply. If the operator rebuts the presumption, the division
immediately shall notify the operator that the operator rebutted
the presumption, and, upon receipt of that notice, the operator
may cease providing a supply of water to the owner under division
(B)(1) of this section.

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

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<u>interruption of the owner's water supply.</u>	1709
<u>(4) The division may investigate a complaint under division</u>	1710
<u>(B) of this section.</u>	1711
<u>(C) If an owner of real property who obtains all or part of</u>	1712
<u>the owner's water supply for domestic, agricultural, industrial,</u>	1713
<u>or other legitimate use from ground water has a diminution,</u>	1714
<u>contamination, or interruption of that water supply and the</u>	1715
<u>owner's real property is not located within the projected cone of</u>	1716
<u>depression of a surface mining operation established under this</u>	1717
<u>section, the owner may submit a written complaint to the operator</u>	1718
<u>of that operation or to the chief informing the operator or the</u>	1719
<u>chief that there is a diminution, contamination, or interruption</u>	1720
<u>of the owner's water supply. The complaint shall include the</u>	1721
<u>owner's name, address, and telephone number.</u>	1722
<u>If the operator receives a written complaint, the operator</u>	1723
<u>immediately shall send the chief a copy of the complaint. If the</u>	1724
<u>chief receives a written complaint, the chief immediately shall</u>	1725
<u>send the operator a copy of the complaint. The chief shall</u>	1726
<u>investigate any complaint submitted under this division and, upon</u>	1727
<u>completion of the investigation, immediately shall send the</u>	1728
<u>results of the investigation to the operator and to the owner that</u>	1729
<u>filed the complaint.</u>	1730
<u>An owner that submits a written complaint under this division</u>	1731
<u>may resolve the diminution, contamination, or interruption of the</u>	1732
<u>owner's water supply with the operator of that operation or may</u>	1733
<u>commence a civil action for that purpose.</u>	1734
<u>(D) An operator may request the chief to amend the plan of</u>	1735
<u>mining and reclamation filed with the application under section</u>	1736
<u>1514.02 of the Revised Code when a ground water user may affect</u>	1737
<u>the projected cone of depression established for the operation</u>	1738
<u>under division (A) of this section. The operator shall submit</u>	1739

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additional data that reflect the ground water user's impact on the 1740
ground water. The chief shall perform ground water modeling using 1741
the additional data and may establish a revised projected cone of 1742
depression for that operation. 1743

(E) This section shall not be construed as creating, 1744
modifying, or affecting any right, liability, or remedy of surface 1745
riparian owners. 1746

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 1747
section 1514.10 of the Revised Code may be fined not more than 1748
five thousand dollars plus not more than one thousand dollars per 1749
acre of land affected, and is responsible for achieving 1750
reclamation of the land as required pursuant to ~~Chapter 1514. of~~ 1751
~~the Revised Code~~ this chapter. 1752

(B) Whoever violates division (B) of section 1514.10 of the 1753
Revised Code may be fined not more than one thousand dollars per 1754
acre of land affected that is not under permit, and is responsible 1755
for achieving reclamation of the land as required pursuant to 1756
~~Chapter 1514. of the Revised Code~~ this chapter. 1757

(C) Whoever violates division (C) of section 1514.10 of the 1758
Revised Code may be fined not less than one hundred nor more than 1759
one thousand dollars, or imprisoned not more than six months, or 1760
both. 1761

(D) Whoever violates division (D), (E), (F), or (G) of 1762
section 1514.10 of the Revised Code may be fined not less than one 1763
hundred nor more than one thousand dollars for a first offense. 1764
For each subsequent offense, on one or more permits held by such 1765
persons, such person may be fined not less than two hundred nor 1766
more than five thousand dollars, or imprisoned not more than six 1767
months, or both. The permit of any person convicted of a third 1768
offense may be revoked by the court at the time of ~~such~~ that 1769
conviction, and ~~such~~ the court at ~~such~~ that time may further order 1770

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that no permit or amendment to a permit may be issued to ~~such that~~ 1771
 person under ~~Chapter 1514. of the Revised Code~~ this chapter for a 1772
 period of five years from the date of ~~such the~~ conviction. Nothing 1773
 contained in this section shall be construed to limit or affect 1774
 the authority of the chief of the division of mineral resources 1775
management granted by this chapter. 1776

Sec. 5749.02. (A) For the purpose of providing revenue to 1777
 administer the state's coal mining and reclamation regulatory 1778
 program, to meet the environmental and resource management needs 1779
 of this state, and to reclaim land affected by mining, an excise 1780
 tax is hereby levied on the privilege of engaging in the severance 1781
 of natural resources from the soil or water of this state. The tax 1782
 shall be imposed upon the severer and shall be: 1783

(1) Seven cents per ton of coal; 1784

(2) Four cents per ton of salt; 1785

(3) Two and three-fourths cents per ton of limestone or 1786
 dolomite; 1787

(4) Two and three-fourths cents per ton of sand and gravel; 1788

(5) Ten cents per barrel of oil; 1789

(6) Two and one-half cents per thousand cubic feet of natural 1790
 gas; 1791

(7) One ~~cent~~ and three-fourths cents per ton of clay, 1792
 sandstone or conglomerate, shale, gypsum, or quartzite. 1793

(B) Of the moneys received by the treasurer of state from the 1794
 tax levied in division (A)(1) of this section, six and 1795
 three-tenths per cent shall be credited to the geological mapping 1796
 fund created in section 1505.09 of the Revised Code, fourteen and 1797
 two-tenths per cent shall be credited to the reclamation 1798
 forfeiture fund created in section 1513.18 of the Revised Code, 1799
 fifty-seven and nine-tenths per cent shall be credited to the coal 1800

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1801 mining administration and reclamation reserve fund created in
1802 section 1513.181 of the Revised Code, and the remainder shall be
1803 credited to the unreclaimed lands fund created in section 1513.30
1804 of the Revised Code. When, at any time during a fiscal year, the
1805 chief of the division of mineral resources management finds that
1806 the balance of the coal mining administration and reclamation
1807 reserve fund is below two million dollars, the chief shall certify
1808 that fact to the director of budget and management. Upon receipt
1809 of the chief's certification, the director shall direct the
1810 treasurer of state to instead credit to the coal mining
1811 administration and reclamation reserve fund during the remainder
1812 of the fiscal year for which the certification is made the
1813 fourteen and two-tenths per cent of the moneys collected from the
1814 tax levied in division (A)(1) of this section and otherwise
1815 required by this division to be credited to the reclamation
1816 forfeiture fund.

1817 ~~Fifteen~~ Twenty-eight and five-tenths per cent of the moneys
1818 received by the treasurer of state from the tax levied in division
1819 (A)(2) of this section shall be credited to the geological mapping
1820 fund and the remainder shall be credited to the ~~unreclaimed lands~~
1821 surface mining fund created in section 1514.06 of the Revised
1822 Code.

1823 Of the moneys received by the treasurer of state from the tax
1824 levied in divisions (A)(3) and (4) of this section, ~~seven~~ fourteen
1825 and five-tenths per cent shall be credited to the geological
1826 mapping fund, ~~forty-two and five-tenths~~ twenty-six per cent shall
1827 be credited to the unreclaimed lands fund, and the remainder shall
1828 be credited to the surface mining fund ~~created in section 1514.06~~
1829 ~~of the Revised Code~~.

1830 Of the moneys received by the treasurer of state from the tax
1831 levied in divisions (A)(5) and (6) of this section, ninety per
1832 cent shall be credited to the oil and gas well fund created in

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section 1509.02 of the Revised Code and ten per cent shall be 1833
credited to the geological mapping fund. ~~All of~~ Of the moneys 1834
received by the treasurer of state from the tax levied in division 1835
(A)(7) of this section, nine and one-tenth per cent shall be 1836
credited to the geological mapping fund, and the remainder shall 1837
be credited to the surface mining fund. 1838

(C) For the purpose of paying the state's expenses for 1839
reclaiming mined lands that the operator failed to reclaim under a 1840
coal mining and reclamation permit issued under Chapter 1513. of 1841
the Revised Code, or under a surface mining permit issued under 1842
Chapter 1514. of the Revised Code, for which the operator's bond 1843
is not sufficient to pay the state's expense for reclamation, 1844
there is hereby levied an excise tax on the privilege of engaging 1845
in the severance of coal from the soil or water of this state in 1846
addition to the taxes levied by divisions (A)(1) and (D) of this 1847
section. The tax shall be imposed at the rate of one cent per ton 1848
of coal. Moneys received by the treasurer of state from the tax 1849
levied under this division shall be credited to the reclamation 1850
forfeiture fund created in section 1513.18 of the Revised Code. 1851

(D) For the purpose of paying the state's expenses for 1852
reclaiming coal mined lands that the operator failed to reclaim in 1853
accordance with Chapter 1513. of the Revised Code under a coal 1854
mining and reclamation permit issued after April 10, 1972, but 1855
before September 1, 1981, for which the operator's bond is not 1856
sufficient to pay the state's expense for reclamation and paying 1857
the expenses for administering the state's coal mining and 1858
reclamation regulatory program, there is hereby levied an excise 1859
tax on the privilege of engaging in the severance of coal from the 1860
soil or water of this state in addition to the taxes levied by 1861
divisions (A)(1) and (C) of this section. The tax shall be imposed 1862
at the rate of one cent per ton of coal as prescribed in this 1863
division. Moneys received by the treasurer of state from the tax 1864

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levied by this division shall be credited to the reclamation
forfeiture fund created in section 1513.18 of the Revised Code.

When, at the close of any fiscal year, the chief finds that
the balance of the reclamation forfeiture fund, plus estimated
transfers to it from the coal mining and reclamation reserve fund
under section 1513.181 of the Revised Code, plus the estimated
revenues from the tax levied by this division for the remainder of
the calendar year that includes the close of the fiscal year, are
sufficient to complete the reclamation of such lands, the purposes
for which the tax under this division is levied shall be deemed
accomplished at the end of that calendar year. The chief, within
thirty days after the close of the fiscal year, shall certify
those findings to the tax commissioner, and the tax shall cease to
be imposed after the last day of that calendar year.

(E) On the day fixed for the payment of the severance taxes
required to be paid by this section, the taxes with any penalties
or interest on them shall become a lien on all property of the
taxpayer in this state whether the property is employed by the
taxpayer in the prosecution of its business or is in the hands of
an assignee, trustee, or receiver for the benefit of creditors or
stockholders. The lien shall continue until the taxes and any
penalties or interest thereon are paid.

Upon failure of the taxpayer to pay a tax on the day fixed
for payment, the tax commissioner may file, for which no filing
fee shall be charged, in the office of the county recorder in each
county in this state in which the taxpayer owns or has a
beneficial interest in real estate, notice of the lien containing
a brief description of the real estate. The lien shall not be
valid as against any mortgagee, purchaser, or judgment creditor
whose rights have attached prior to the time the notice is filed
in the county in which the real estate that is the subject of the
mortgage, purchase, or judgment lien is located. The notice shall

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be recorded in a book kept by the recorder called the "severance
tax lien record" and indexed under the name of the taxpayer
charged with the tax. When the tax has been paid, the tax
commissioner shall furnish to the taxpayer an acknowledgement of
payment, which the taxpayer may record with the recorder of each
county in which notice of the lien has been filed.

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 5749.02 of the Revised Code are
hereby repealed.

Section 3. The Director of Natural Resources shall conduct a
study of the Division of Mineral Resources Management's safety
inspection program for noncoal surface mining. The study shall
examine the organizational structure of the safety inspection
program and make recommendations to improve efficiency, improve
workers safety, expand the safety training program, and reduce
duplication by evaluating potential improvements to worker safety
and program effectiveness through any or all of the following:

(A) The repeal of the provisions in Chapter 1561. of the
Revised Code that apply to noncoal surface mines, specifically the
repeal of the provisions concerning the inspection of noncoal
surface mines;

(B) The repeal of the provisions in Am. H.B. 384 of the 123rd
General Assembly that apply to noncoal surface mines;

(C) The adoption by reference only of the federal Mine Safety
and Health Administration part 56 standards for noncoal surface
mines as identified by the Director;

(D) The establishment of a training program by the Department
of Natural Resources in accordance with part 46 standards as
identified by the Director;

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(E) The establishment of a courtesy inspection program by the 1927
Department in conjunction with the Division of Safety and Hygiene 1928
in the Bureau of Workers' Compensation. 1929

In conducting the study, the Director shall seek the advice 1930
and opinions of a representative from a trade organization that 1931
represents noncoal surface and clay mines. Not later than January 1932
1, 2002, the Director shall report the findings and 1933
recommendations of the study to the Governor, the President of the 1934
Senate, and the Speaker of the House of Representatives. 1935

Section 4. Section 5749.02 of the Revised Code, as amended by 1936
this act, shall take effect January 1, 2002. 1937