

As Introduced

**126th General Assembly
Regular Session
2005-2006**

H. B. No. 400

**Representatives McGregor, J., Aslanides, Cassell, Fende, Carano, Wolpert,
Webster**

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A B I L L

To amend sections 303.02, 303.14, 519.02, 519.14, 1
1513.30, 1514.01, 1514.04, 1514.05, 1514.06, 2
1514.09, 1514.11, 1514.99, and 5749.02 and to 3
enact sections 315.09, 1514.011, 1514.051, 1514.40 4
to 1514.47, 1514.50, 1561.011, 1563.01, 1565.01, 5
1567.01, and 1571.011 of the Revised Code to 6
revise the distribution of revenues from the 7
severance tax on industrial minerals, to exempt 8
industrial minerals mining operations from the 9
state mine safety laws and instead provide for the 10
adoption of federal mine safety requirements for 11
those operations, to revise the zoning laws 12
concerning industrial minerals mining, and to make 13
other changes governing the mining of industrial 14
minerals. 15

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

Section 1. That sections 303.02, 303.14, 519.02, 519.14, 16
1513.30, 1514.01, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 17
1514.99, and 5749.02 be amended and sections 315.09, 1514.011, 18
1514.051, 1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 19
1514.46, 1514.47, 1514.50, 1561.011, 1563.01, 1565.01, 1567.01, 20

and 1571.011 of the Revised Code be enacted to read as follows: 21

Sec. 303.02. Except as otherwise provided in this section, in 22
the interest of the public health and safety, the board of county 23
commissioners may regulate by resolution, in accordance with a 24
comprehensive plan, the location, height, bulk, number of stories, 25
and size of buildings and other structures, including tents, 26
cabins, and trailer coaches, percentages of lot areas that may be 27
occupied, set back building lines, sizes of yards, courts, and 28
other open spaces, the density of population, the uses of 29
buildings and other structures, including tents, cabins, and 30
trailer coaches, and the uses of land for trade, industry, 31
residence, recreation, or other purposes in the unincorporated 32
territory of the county. Except as otherwise provided in this 33
section, in the interest of the public convenience, comfort, 34
prosperity, or general welfare, the board, by resolution, in 35
accordance with a comprehensive plan, may regulate the location 36
of, set back lines for, and the uses of buildings and other 37
structures, including tents, cabins, and trailer coaches, and the 38
uses of land for trade, industry, residence, recreation, or other 39
purposes in the unincorporated territory of the county, and may 40
establish reasonable landscaping standards and architectural 41
standards excluding exterior building materials in the 42
unincorporated territory of the county. Except as otherwise 43
provided in this section, in the interest of the public 44
convenience, comfort, prosperity, or general welfare, the board 45
may regulate by resolution, in accordance with a comprehensive 46
plan, for nonresidential property only, the height, bulk, number 47
of stories, and size of buildings and other structures, including 48
tents, cabins, and trailer coaches, percentages of lot areas that 49
may be occupied, sizes of yards, courts, and other open spaces, 50
and the density of population in the unincorporated territory of 51

the county. For all these purposes, the board may divide all or 52
any part of the unincorporated territory of the county into 53
districts or zones of such number, shape, and area as the board 54
determines. All such regulations shall be uniform for each class 55
or kind of building or other structure or use throughout any 56
district or zone, but the regulations in one district or zone may 57
differ from those in other districts or zones. 58

For any activities permitted and regulated under Chapter 59
1513. or 1514. of the Revised Code and any related processing 60
activities, the board of county commissioners may regulate under 61
the authority conferred by this section only in the interest of 62
public health or safety. 63

Notwithstanding any other provision of the Revised Code to 64
the contrary, and except as otherwise provided in this section, a 65
zoning resolution authorized under this section shall allow the 66
activities that are permitted and regulated under Chapter 1514. of 67
the Revised Code and any related processing activities and shall 68
designate those activities as either a permitted use or a 69
conditional use in any district or zone in which aggregate 70
minerals are located. 71

Nothing in this chapter requires a board of county 72
commissioners to designate activities that are permitted and 73
regulated under Chapter 1514. of the Revised Code and related 74
processing activities as a conditional use in a zoning resolution 75
when the proposed location of the activities is adjacent to an 76
area that is platted under section 711.05, 711.09, or 711.10 of 77
the Revised Code or an area that is comprised of twenty or more 78
contiguous lots or of twenty or more lots some of which are 79
contiguous to one another and adjacent to a public road and the 80
remainder of which are contiguous to one another and adjacent to 81
the opposite side of that public road unless a majority of the 82
owners of the lots provide written consent to the designation of 83

the activities as a conditional use in the zoning resolution.

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Sec. 303.14. The county board of zoning appeals may:

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(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 303.01 to 303.25 of the Revised Code, or of any resolution adopted pursuant thereto;

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(B) Authorize upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done;

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(C) Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the zoning resolution. If the board considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514. of the Revised Code or any related processing activities, the board shall not consider or base its determination on matters that are regulated by any federal, state, or local agency. However, the board may require as a condition of the approval of a conditional zoning certificate for such an activity one or more of the following:

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(1) Inspections of nearby structures and water wells to determine structural integrity and water levels;

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(2) Compliance with applicable federal, state, and local laws and regulations;

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(3) Identification of specific roads as the primary means of ingress to and egress from the proposed activity;

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<u>(4) Compliance with reasonable noise abatement measures;</u>	114
<u>(5) Compliance with reasonable dust abatement measures;</u>	115
<u>(6) Establishment of berms and buffers for the proposed activity;</u>	116 117
<u>(7) Establishment of a complaint procedure;</u>	118
<u>(8) Any other measure reasonably related to public health and safety.</u>	119 120
<u>In addition, if the applicant for a conditional zoning certificate for such an activity agrees in writing, the board may impose reasonable hours of operation as a condition to the issuance of the certificate.</u>	121 122 123 124
(D) Revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals, if any condition of the variance or certificate is violated.	125 126 127
The board shall notify the holder of the variance or certificate by certified mail of its intent to revoke the variance or certificate under division (D) of this section and of his <u>the holder's</u> right to a hearing before the board within thirty days of the mailing of the notice if he <u>the holder</u> so requests. If the holder requests a hearing, the board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person, by his attorney, or by other representative, or he <u>the holder</u> may present his <u>the holder's</u> position in writing. He <u>The holder</u> may present evidence and examine witnesses appearing for or against him <u>the holder</u> . If no hearing is requested, the board may revoke the variance or certificate without a hearing. The authority to revoke a variance or certificate is in addition to any other means of zoning enforcement provided by law.	128 129 130 131 132 133 134 135 136 137 138 139 140 141
In exercising the above-mentioned powers, such <u>the</u> board may, in conformity with such sections, reverse or affirm, wholly or	142 143

partly, or modify the order, requirement, decision, or 144
determination appealed from and may make such order, requirement, 145
decision, or determination as ought to be made, and to that end 146
has all powers of the officer from whom the appeal is taken. 147

Sec. 315.09. (A) As used in this section: 148

(1) "Infrastructure" means the streets, roads, and highways 149
that are used for ingress to and egress from a surface mining 150
operation and that are under the jurisdiction of the county 151
engineer or a board of township trustees. 152

(2) "Infrastructure improvement" means the construction, 153
installation, repair, or maintenance of infrastructure. 154

(3) "Surface mining operation" has the same meaning as in 155
section 1514.01 of the Revised Code. 156

(B) The county auditor shall deposit money received from the 157
tax levied under division (B) of section 5749.02 of the Revised 158
Code in the county treasury to the credit of a surface mining 159
operations infrastructure improvements fund. The county engineer, 160
in consultation with the boards of township trustees of the 161
unincorporated areas within the county where surface mining 162
operations and related processing activities are located, shall 163
allocate the money in the fund to infrastructure improvements 164
within the county and the applicable townships. Money in the fund 165
shall be appropriated solely for infrastructure improvements. 166

Sec. 519.02. Except as otherwise provided in this section, in 167
the interest of the public health and safety, the board of 168
township trustees may regulate by resolution, in accordance with a 169
comprehensive plan, the location, height, bulk, number of stories, 170
and size of buildings and other structures, including tents, 171
cabins, and trailer coaches, percentages of lot areas that may be 172
occupied, set back building lines, sizes of yards, courts, and 173

other open spaces, the density of population, the uses of 174
buildings and other structures, including tents, cabins, and 175
trailer coaches, and the uses of land for trade, industry, 176
residence, recreation, or other purposes in the unincorporated 177
territory of the township. Except as otherwise provided in this 178
section, in the interest of the public convenience, comfort, 179
prosperity, or general welfare, the board by resolution, in 180
accordance with a comprehensive plan, may regulate the location 181
of, set back lines for, and the uses of buildings and other 182
structures, including tents, cabins, and trailer coaches, and the 183
uses of land for trade, industry, residence, recreation, or other 184
purposes in the unincorporated territory of the township, and may 185
establish reasonable landscaping standards and architectural 186
standards excluding exterior building materials in the 187
unincorporated territory of the township. Except as otherwise 188
provided in this section, in the interest of the public 189
convenience, comfort, prosperity, or general welfare, the board 190
may regulate by resolution, in accordance with a comprehensive 191
plan, for nonresidential property only, the height, bulk, number 192
of stories, and size of buildings and other structures, including 193
tents, cabins, and trailer coaches, percentages of lot areas that 194
may be occupied, sizes of yards, courts, and other open spaces, 195
and the density of population in the unincorporated territory of 196
the township. For all these purposes, the board may divide all or 197
any part of the unincorporated territory of the township into 198
districts or zones of such number, shape, and area as the board 199
determines. All such regulations shall be uniform for each class 200
or kind of building or other structure or use throughout any 201
district or zone, but the regulations in one district or zone may 202
differ from those in other districts or zones. 203

For any activities permitted and regulated under Chapter 204
1513. or 1514. of the Revised Code and any related processing 205
activities, the board of township trustees may regulate under the 206

authority conferred by this section only in the interest of public health or safety. 207
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Notwithstanding any other provision of the Revised Code to the contrary, and except as otherwise provided in this section, a zoning resolution authorized under this section shall allow the activities that are permitted and regulated under Chapter 1514. of the Revised Code and any related processing activities and shall designate those activities as either a permitted use or a conditional use in any district or zone in which aggregate minerals are located. 209
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Nothing in this chapter requires a board of township trustees to designate activities that are permitted and regulated under Chapter 1514. of the Revised Code and related processing activities as a conditional use in a zoning resolution when the proposed location of the activities is adjacent to an area that is platted under section 711.05, 711.09, or 711.10 of the Revised Code or an area that is comprised of twenty or more contiguous lots or of twenty or more lots some of which are contiguous to one another and adjacent to a public road and the remainder of which are contiguous to one another and adjacent to the opposite side of that public road unless a majority of the owners of the lots provide written consent to the designation of the activities as a conditional use in the zoning resolution. 217
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Sec. 519.14. The township board of zoning appeals may: 230

(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto; 231
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(B) Authorize, upon appeal, in specific cases, such variance 236

from the terms of the zoning resolution as will not be contrary to
the public interest, where, owing to special conditions, a literal
enforcement of the resolution will result in unnecessary hardship,
and so that the spirit of the resolution shall be observed and
substantial justice done;

(C) Grant conditional zoning certificates for the use of
land, buildings, or other structures if such certificates for
specific uses are provided for in the zoning resolution. If the
board considers conditional zoning certificates for activities
that are permitted and regulated under Chapter 1514. of the
Revised Code or any related processing activities, the board shall
not consider or base its determination on matters that are
regulated by any federal, state, or local agency. However, the
board may require as a condition of the approval of a conditional
zoning certificate for such an activity one or more of the
following:

(1) Inspections of nearby structures and water wells to
determine structural integrity and water levels;

(2) Compliance with applicable federal, state, and local laws
and regulations;

(3) Identification of specific roads as the primary means of
ingress to and egress from the proposed activity;

(4) Compliance with reasonable noise abatement measures;

(5) Compliance with reasonable dust abatement measures;

(6) Establishment of berms and buffers for the proposed
activity;

(7) Establishment of a complaint procedure;

(8) Any other measure reasonably related to public health and
safety.

In addition, if the applicant for a conditional zoning

certificate for such an activity agrees in writing, the board may 267
impose reasonable hours of operation as a condition to the 268
issuance of the certificate. 269

(D) Revoke an authorized variance or conditional zoning 270
certificate granted for the extraction of minerals, if any 271
condition of the variance or certificate is violated. 272

The board shall notify the holder of the variance or 273
certificate by certified mail of its intent to revoke the variance 274
or certificate under division (D) of this section and of ~~his~~ the 275
holder's right to a hearing before the board, within thirty days 276
of the mailing of the notice, if ~~he~~ the holder so requests. If the 277
holder requests a hearing, the board shall set a time and place 278
for the hearing and notify the holder. At the hearing, the holder 279
may appear in person, by ~~his~~ the holder's attorney, or by other 280
representative, or ~~he~~ the holder may present ~~his~~ the holder's 281
position in writing. ~~He~~ The holder may present evidence and 282
examine witnesses appearing for or against ~~him~~ the holder. If no 283
hearing is requested, the board may revoke the variance or 284
certificate without a hearing. The authority to revoke a variance 285
or certificate is in addition to any other means of zoning 286
enforcement provided by law. 287

In exercising the above-mentioned powers, ~~such~~ the board may, 288
in conformity with such sections, reverse or affirm, wholly or 289
partly, or may modify the order, requirement, decision, or 290
determination appealed from, and may make such order, requirement, 291
decision, or determination as ought to be made, and to that end 292
has all powers of the officer from whom the appeal is taken. 293

Sec. 1513.30. There is hereby created in the state treasury 294
the unreclaimed lands fund, to be administered by the chief of the 295
division of mineral resources management and used for the purpose 296
of reclaiming land, public or private, affected by mining, or 297

controlling mine drainage, for which no cash is held in the 298
reclamation forfeiture fund created in section 1513.18 of the 299
Revised Code ~~or the surface mining fund created in section 1514.06~~ 300
~~of the Revised Code~~ and also for the purpose of paying the 301
expenses and compensation of the council on unreclaimed strip 302
mined lands as required by section 1513.29 of the Revised Code. 303

In order to direct expenditures from the unreclaimed lands 304
fund toward reclamation projects that fulfill priority needs and 305
provide the greatest public benefits, the chief periodically shall 306
submit to the council project proposals to be financed from the 307
unreclaimed lands fund, together with benefit and cost data and 308
other pertinent information. For the purpose of selecting project 309
areas and determining the boundaries of project areas, the council 310
shall consider the feasibility, cost, and public benefits of 311
reclaiming the areas, their potential for being mined, the 312
availability of federal or other financial assistance for 313
reclamation, and the geographic distribution of project areas to 314
ensure fair distribution among affected areas. 315

The council shall give priority to areas where there is 316
little or no likelihood of mining within the foreseeable future, 317
reclamation is feasible at reasonable cost with available funds, 318
and either of the following applies: 319

(A) The pollution of the waters of the state and damage to 320
adjacent property are most severe and widespread. 321

(B) Reclamation will make possible public uses for soil, 322
water, forest, or wildlife conservation or public recreation 323
purposes, will facilitate orderly commercial or industrial site 324
development, or will facilitate the use or improve the enjoyment 325
of nearby public conservation or recreation lands. 326

At least two weeks before any meeting of the council on 327
unreclaimed strip mined lands at which the chief will submit a 328

project proposal, a project area will be selected, or the 329
boundaries of a project area will be determined, the chief shall 330
mail notice by first class mail to the board of county 331
commissioners of the county and the board of township trustees of 332
the township in which the proposed project lies and the chief 333
executive officer and the legislative authority of each municipal 334
corporation within the proposed project area. The chief also shall 335
give reasonable notice to the news media in the county where the 336
proposed project lies. 337

Expenditures from the unreclaimed lands fund for reclamation 338
projects may be made only for projects that are within the 339
boundaries of project areas approved by the council, and 340
expenditures for a particular project may not exceed any 341
applicable limits set by the council. Expenditures from the 342
unreclaimed lands fund shall be made by the chief, with the 343
approval of the director of natural resources. 344

The controlling board may transfer excess funds from the oil 345
and gas well fund created in section 1509.02 of the Revised Code, 346
after recommendation by the council on unreclaimed strip mined 347
lands, to meet deficiencies in the unreclaimed lands fund. 348

The chief may expend an amount not to exceed twenty per cent 349
of the moneys credited annually by the treasurer of state to the 350
unreclaimed lands fund for the purpose of administering the fund. 351

The chief may engage in cooperative projects under this 352
section with any agency of the United States, appropriate state 353
agencies, or state universities or colleges as defined in section 354
3345.27 of the Revised Code and may transfer money from the fund, 355
with the approval of the council, to other appropriate state 356
agencies or to state universities or colleges in order to carry 357
out the reclamation activities authorized by this section. 358

Sec. 1514.01. As used in this chapter: 359

(A) "Surface mining" means all or any part of a process 360
followed in the production of minerals from the earth or from the 361
surface of the land by surface excavation methods, such as open 362
pit mining, dredging, placering, or quarrying, and includes the 363
removal of overburden for the purpose of determining the location, 364
quantity, or quality of mineral deposits, and the incidental 365
removal of coal at a rate less than one-sixth the total weight of 366
minerals and coal removed during the year, but does not include: 367
test or exploration boring; mining operations carried out beneath 368
the surface by means of shafts, tunnels, or similar mine openings; 369
the extraction of minerals, other than coal, by a landowner for 370
the landowner's own noncommercial use where such material is 371
extracted and used in an unprocessed form on the same tract of 372
land; the extraction of minerals, other than coal, from borrow 373
pits for highway construction purposes, provided that the 374
extraction is performed under a bond, a contract, and 375
specifications that substantially provide for and require 376
reclamation practices consistent with the requirements of this 377
chapter; the removal of minerals incidental to construction work, 378
provided that the owner or person having control of the land upon 379
which the construction occurs, the contractor, or the construction 380
firm possesses a valid building permit; the removal of minerals to 381
a depth of not more than five feet, measured from the highest 382
original surface elevation of the area to be excavated, where not 383
more than one acre of land is excavated during twelve successive 384
calendar months; routine dredging of a watercourse for purely 385
navigational or flood control purposes during which materials are 386
removed for noncommercial purposes; or the extraction or movement 387
of soil or minerals within a solid waste facility, as defined in 388
section 3734.01 of the Revised Code, that is a sanitary landfill 389
when the soil or minerals are used exclusively for the 390

construction, operation, closure, and post-closure care of the 391
facility or for maintenance activities at the facility. 392

(B) "Minerals" means sand, gravel, clay, shale, gypsum, 393
halite, limestone, dolomite, sandstone, other stone, metalliferous 394
or nonmetalliferous ore, or other material or substance of 395
commercial value excavated in a solid state from natural deposits 396
on or in the earth, but does not include coal or peat. 397

(C) "Overburden" means all of the earth and other materials 398
that cover a natural deposit of minerals and also means such earth 399
and other materials after removal from their natural state in the 400
process of surface mining. 401

(D) "Spoil bank" means a pile of removed overburden. 402

(E) "Area of land affected" means the area of land that has 403
been excavated, or upon which a spoil bank exists, or both. 404

(F)(1) "Operation" or "surface mining operation" means all of 405
the premises, facilities, and equipment used in the process of 406
removing minerals, or minerals and incidental coal, by surface 407
mining from a mining area in the creation of which mining area 408
overburden or minerals, or minerals and incidental coal, are 409
disturbed or removed, such surface mining area being located upon 410
a single tract of land or upon two or more contiguous tracts of 411
land. Separation by a stream or roadway shall not preclude the 412
tracts from being considered contiguous. 413

(2) When the context indicates, "operation" or "in-stream 414
mining operation" means all of the premises, facilities, and 415
equipment used in the process of removing minerals by in-stream 416
mining from a mining area. 417

(G) "Operator" means any person engaged in surface mining who 418
removes minerals, or minerals and incidental coal, from the earth 419
by surface mining or who removes overburden for the purpose of 420

determining the location, quality, or quantity of a mineral 421
deposit. "Operator" also means any person engaged in in-stream 422
mining who removes minerals from the bottom of the channel of a 423
watercourse by in-stream mining. 424

(H) "Performance bond" means the surety bond required to be 425
filed under section 1514.04 of the Revised Code and includes cash, 426
an irrevocable letter of credit, and negotiable certificates of 427
deposit authorized to be deposited in lieu of the surety bond 428
under that section. 429

(I) "Dewatering" means the withdrawal of ground water from an 430
aquifer or saturated zone that may result in the lowering of the 431
water level within the aquifer or saturated zone or a decline of 432
the potentiometric surface within that aquifer or saturated zone. 433

(J) "Ground water" means all water occurring in an aquifer. 434

(K) "Cone of depression" means a depression or low point in 435
the water table or potentiometric surface of a body of ground 436
water that develops around a location from which ground water is 437
being withdrawn. 438

(L) "High water mark" means the line on the shore that is 439
established by the fluctuations of water and indicated by physical 440
characteristics such as a natural line impressed on the bank; 441
shelving; changes in the character of soil; destruction of 442
terrestrial vegetation; the presence of litter and debris; or 443
other appropriate means that consider the characteristics of the 444
surrounding area. 445

(M) "In-stream mining" means all or any part of a process 446
followed in the production of minerals from the bottom of the 447
channel of a watercourse that drains a surface area of more than 448
one hundred square miles. "In-stream mining" may be accomplished 449
by using any technique or by using surface excavation methods, 450
such as open pit mining, dredging, placering, or quarrying, and 451

includes the removal of overburden for the purpose of determining 452
the location, quantity, or quality of mineral deposits. "In-stream 453
mining" does not include either of the following: 454

(1) Routine dredging for purely navigational or flood control 455
purposes during which materials are removed for noncommercial 456
purposes; 457

(2) The extraction of minerals, other than coal, by a 458
landowner for the landowner's own noncommercial use when the 459
material is extracted and used in an unprocessed form on the same 460
tract of land. 461

For purposes of division (M) of this section, the number of 462
square miles of surface area that a watercourse drains shall be 463
determined by consulting the "gazetteer of Ohio streams," which is 464
a portion of the Ohio water plan inventory published in 1960 by 465
the division of water in the department of natural resources, or 466
its successor, if any. 467

(N) In provisions concerning in-stream mining, when the 468
context is appropriate, "land" is deemed to include an area of a 469
watercourse. 470

(O) "Watercourse" means any naturally occurring perennial or 471
intermittent stream, river, or creek flowing within a defined 472
stream bed and banks. 473

(P) "Certified mine foreperson" means the person whom the 474
operator of a surface mining operation places in charge of the 475
conditions and practices at the mine, who is responsible for 476
conducting workplace examinations under 30 C.F.R. part 56, as 477
amended, and who has passed an examination for the position 478
administered by the division of mineral resources management. 479

Sec. 1514.011. The division of mineral resources management 480
has authority over all surface mining operations located in the 481

state and shall exercise that authority as provided in this 482
chapter. 483

Sec. 1514.04. (A) Upon receipt of notification from the chief 484
of the division of mineral resources management of the chief's 485
intent to issue an order granting a surface or in-stream mining 486
permit to the applicant, the applicant shall file a surety bond, 487
cash, an irrevocable letter of credit, or certificates of deposit 488
in the amount, unless otherwise provided by rule, of ten thousand 489
dollars ~~plus one thousand~~. If the amount of land to be affected is 490
more than twenty acres, the applicant also shall file a surety 491
bond, cash, an irrevocable letter of credit, or certificates of 492
deposit in the amount of five hundred dollars per acre of land to 493
be affected that exceeds twenty acres. Upon receipt of 494
notification from the chief of the chief's intent to issue an 495
order granting an amendment to a surface or in-stream mining 496
permit, the applicant shall file a surety bond, cash, an 497
irrevocable letter of credit, or certificates of deposit in the 498
amount, ~~unless otherwise provided by rule, of one thousand dollars~~ 499
~~per acre of land to be affected~~ required in this division. 500

In the case of a surface mining permit, the bond shall be 501
filed ~~for~~ based on the number of acres estimated to be affected 502
during the first year of operation under the permit. In the case 503
of an amendment to a surface mining permit, the bond shall be 504
filed ~~for~~ based on the number of acres estimated to be affected 505
during the balance of the period until the next anniversary date 506
of the permit. 507

In the case of an in-stream mining permit, the bond shall be 508
filed ~~for~~ based on the number of acres of land within the limits 509
of the in-stream mining permit for the entire permit period. In 510
the case of an amendment to an in-stream mining permit, the bond 511
shall be filed ~~for~~ based on the number of any additional acres of 512

land to be affected within the limits of the in-stream mining 513
permit. 514

(B) A surety bond filed pursuant to this section and sections 515
1514.02 and 1514.03 of the Revised Code shall be upon the form 516
that the chief prescribes and provides and shall be signed by the 517
operator as principal and by a surety company authorized to 518
transact business in the state as surety. The bond shall be 519
payable to the state and shall be conditioned upon the faithful 520
performance by the operator of all things to be done and performed 521
by the operator as provided in this chapter and the rules and 522
orders of the chief adopted or issued pursuant thereto. 523

The operator may deposit with the chief, in lieu of a surety 524
bond, cash in an amount equal to the surety bond as prescribed in 525
this section, an irrevocable letter of credit or negotiable 526
certificates of deposit issued by any bank organized or 527
transacting business in this state, or an irrevocable letter of 528
credit or certificates of deposit issued by any savings and loan 529
association as defined in section 1151.01 of the Revised Code, 530
having a cash value equal to or greater than the amount of the 531
surety bond as prescribed in this section. Cash or certificates of 532
deposit shall be deposited upon the same terms as the terms upon 533
which surety bonds may be deposited. If one or more certificates 534
of deposit are deposited with the chief in lieu of a surety bond, 535
the chief shall require the bank or savings and loan association 536
that issued any such certificate to pledge securities of a cash 537
value equal to the amount of the certificate, or certificates, 538
that is in excess of the amount insured by the federal deposit 539
insurance corporation. The securities shall be security for the 540
repayment of the certificate of deposit. 541

(C) Immediately upon a deposit of cash, a letter of credit, 542
or certificates with the chief, the chief shall deliver it to the 543
treasurer of state who shall hold it in trust for the purposes for 544

which it has been deposited. The treasurer of state shall be 545
responsible for the safekeeping of such deposits. An operator 546
making a deposit of cash, a letter of credit, or certificates of 547
deposit may withdraw and receive from the treasurer of state, on 548
the written order of the chief, all or any part of the cash, 549
letter of credit, or certificates in the possession of the 550
treasurer of state, upon depositing with the treasurer of state 551
cash, an irrevocable letter of credit, or negotiable certificates 552
of deposit issued by any bank organized or transacting business in 553
this state, or an irrevocable letter of credit or certificates of 554
deposit issued by any savings and loan association, equal in value 555
to the value of the cash, letter of credit, or certificates 556
withdrawn. An operator may demand and receive from the treasurer 557
of state all interest or other income from any certificates as it 558
becomes due. If certificates deposited with and in the possession 559
of the treasurer of state mature or are called for payment by the 560
issuer thereof, the treasurer of state, at the request of the 561
operator who deposited them, shall convert the proceeds of the 562
redemption or payment of the certificates into such other 563
negotiable certificates of deposit issued by any bank organized or 564
transacting business in this state, such other certificates of 565
deposit issued by any savings and loan association, or cash, as 566
may be designated by the operator. 567

(D) A governmental agency, as defined in division (A) of 568
section 1514.022 of the Revised Code, or a board or commission 569
that derives its authority from a governmental agency shall not 570
require a surface or in-stream mining operator to file a surety 571
bond or any other form of financial assurance for the reclamation 572
of land to be affected by a surface or in-stream mining operation 573
authorized under this chapter. 574

Sec. 1514.05. (A) At any time within the period allowed an 575
operator by section 1514.02 of the Revised Code to reclaim an area 576

of land affected by surface or in-stream mining, the operator may 577
file a request, on a form provided by the chief of the division of 578
mineral resources management, for inspection of the area of land 579
upon which ~~a phase of the reclamation, other than any required~~ 580
~~planting,~~ is completed. ~~For purposes of inspections and subsequent~~ 581
~~releases of performance bonds or cash, irrevocable letters of~~ 582
~~credit, or certificates of deposit deposited in lieu of bonds~~ 583
~~under this section, reclamation shall be considered to occur in~~ 584
~~two phases. The first phase involves grading, contouring,~~ 585
~~terracing, resoiling, and initial planting. The second phase~~ 586
~~involves the establishment of vegetative cover together with the~~ 587
~~maintenance and the completion of all reclamation required under~~ 588
~~this chapter or rules adopted under it. The~~ 589

A request ~~for inspection at the completion of a phase of~~ 590
~~reclamation~~ shall include all of the following: 591

(1) The location of the area and number of acres; 592

(2) The permit number; 593

(3) The amount of performance bond on deposit at the time of 594
the request to ensure reclamation of the area; 595

(4) A map showing the location of the acres reclaimed, 596
prepared and certified in accordance with division (A)(11) or (12) 597
of section 1514.02 of the Revised Code, as appropriate. In the 598
case of an in-stream mining operation, the map also shall include 599
the information required under division (A)(18) of section 1514.02 600
of the Revised Code. 601

~~In addition, a request for inspection of the second phase of~~ 602
~~reclamation shall include a description of the type and date of~~ 603
~~any required planting and a statement regarding the degree of~~ 604
~~success of the growth.~~ 605

~~(B)~~ The chief shall make an inspection and evaluation of the 606

reclamation of the area of land for which a the request was 607
submitted within ninety days after receipt of the request or, if 608
the operator fails to complete the reclamation or file the request 609
as required, as soon as the chief learns of the default. 610
Thereupon, if the chief approves ~~the first phase of the~~ 611
reclamation, other than any required planting, as meeting the 612
requirements of this chapter, rules adopted thereunder, any orders 613
issued during the mining or reclamation, and the specifications of 614
the plan for mining and reclaiming, the chief shall issue an order 615
to the operator and the operator's surety releasing them from 616
liability for ~~the applicable percentage specified in this division~~ 617
one-half of the total amount of their surety bond on deposit to 618
ensure reclamation for the area upon which reclamation is 619
completed. If ~~the chief approves the second phase of the~~ 620
~~reclamation, the chief shall order release of the remaining~~ 621
~~performance bond, after completing the inspection and evaluation,~~ 622
~~in the same manner as in the case of approval of the first phase~~ 623
~~of reclamation, and the treasurer of state shall proceed as in~~ 624
~~that case.~~ 625

~~On approval of the first phase of reclamation, the chief~~ 626
~~shall release seventy five per cent of the amount of the surety~~ 627
~~bond on deposit. On approval of the second phase of reclamation,~~ 628
~~the chief shall release the remaining amount of the surety bond~~ 629
~~that originally was on deposit.~~ 630

~~If~~ the operator has deposited cash, an irrevocable letter of 631
credit, or certificates of deposit in lieu of a surety bond to 632
ensure reclamation, the chief shall issue an order to the operator 633
releasing one-half of the amount so held ~~in the same manner and in~~ 634
~~the same percentages that apply to the release of a surety bond~~ 635
and promptly shall transmit a certified copy of the order to the 636
treasurer of state. Upon presentation of the order to the 637
treasurer of state by the operator to whom it was issued, or by 638

the operator's authorized agent, the treasurer of state shall 639
deliver to the operator or the operator's authorized agent the 640
cash, irrevocable letter of credit, or certificates of deposit 641
designated in the order. 642

~~(C)~~ If the chief does not approve ~~a phase of~~ the reclamation, 643
other than any required planting, the chief shall notify the 644
operator by certified mail. The notice shall be an order stating 645
the reasons for unacceptability, ordering further actions to be 646
taken, and setting a time limit for compliance. If the operator 647
does not comply with the order within the time limit specified, 648
the chief may order an extension of time for compliance after 649
determining that the operator's noncompliance is for good cause, 650
resulting from developments partially or wholly beyond the 651
operator's control. If the operator complies within the time limit 652
or the extension of time granted for compliance, the chief shall 653
order release of the performance bond in the same manner as in the 654
case of approval of reclamation, other than any required planting, 655
by the chief, and the treasurer of state shall proceed as in that 656
case. If the operator does not comply within the time limit and 657
the chief does not order an extension, or if the chief orders an 658
extension of time and the operator does not comply within the 659
extension of time granted for compliance, the chief shall issue 660
another order declaring that the operator has failed to reclaim 661
and, if the operator's permit has not already expired or been 662
revoked, revoking the operator's permit. The chief shall thereupon 663
proceed under division ~~(D)~~(C) of this section. 664

~~(D)~~(B) At any time within the period allowed an operator by 665
section 1514.02 of the Revised Code to reclaim an area affected by 666
surface mining, the operator may file a request on a form provided 667
by the chief for inspection of the area of land on which all 668
reclamation, including the successful establishment of any 669
required planting, is completed. The request shall include all of 670

the following: 671

(1) The location of the area and number of acres; 672

(2) The permit number; 673

(3) The remaining amount of performance bond on deposit to 674
ensure reclamation of the area; 675

(4) The type and date of any required planting of vegetative 676
cover and the degree of success of growth; 677

(5) A map showing the location of the acres reclaimed, 678
prepared and certified in accordance with division (A)(11) or (12) 679
of section 1514.02 of the Revised Code, as appropriate. 680

The chief shall make an inspection and evaluation of the 681
reclamation of the area of land for which the request was 682
submitted within ninety days after receipt of the request or, if 683
the operator fails to complete the reclamation or file the request 684
as required, as soon as the chief learns of the default. 685

Thereupon, if the chief finds that the reclamation meets the 686
requirements of this chapter, rules adopted under it, any orders 687
issued during the mining and reclamation, and the specifications 688
of the plan for mining and reclaiming and decides to release any 689
remaining performance bond on deposit to ensure reclamation of the 690
area on which reclamation is completed, within ten days of 691
completing the inspection and evaluation, the chief shall order 692
release of the remaining performance bond in the same manner as in 693
the case of approval of reclamation other than required planting, 694
and the treasurer of state shall proceed as in that case. 695

If the chief does not approve the reclamation performed by 696
the operator, the chief shall notify the operator by certified 697
mail within ninety days of the filing of the application for 698
inspection or of the date when the chief learns of the default. 699

The notice shall be an order stating the reasons for 700
unacceptability, ordering further actions to be taken, and setting 701

a time limit for compliance. If the operator does not comply with
the order within the time limit specified, the chief may order an
extension of time for compliance after determining that the
operator's noncompliance is for good cause, resulting from
developments partially or wholly beyond the operator's control. If
the operator complies within the time limit or the extension of
time granted for compliance, the chief shall order release of the
remaining performance bond in the same manner as in the case of
approval of reclamation by the chief, and the treasurer of state
shall proceed as in that case. If the operator does not comply
within the time limit and the chief does not order an extension,
or if the chief orders an extension of time and the operator does
not comply within the extension of time granted for compliance,
the chief shall issue another order declaring that the operator
has failed to reclaim and, if the operator's permit has not
already expired or been revoked, revoking the operator's permit.
The chief then shall proceed under division (C) of this section.

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(C) Upon issuing an order under division ~~(C)~~(A) or (B) of
this section declaring that the operator has failed to reclaim,
the chief shall ~~retain all or part of the performance bond on~~
~~deposit for reclamation of the affected surface or in-stream mine~~
~~site. The~~ 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 chief at the

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same time shall issue an order declaring that the remaining cash, 734
irrevocable letter of credit, or certificates of deposit, ~~if any,~~ 735
are the property of the state and are available for use by the 736
chief in performing reclamation of the area and shall proceed in 737
accordance with section 1514.06 of the Revised Code. 738

If the operator has on deposit a surety bond to ensure 739
reclamation of the area of land affected, the chief shall notify 740
the surety in writing of the operator's default and shall request 741
the surety to perform the surety's obligation and that of the 742
operator. The surety, within ten days after receipt of the notice, 743
shall notify the chief as to whether it intends to perform those 744
obligations. 745

If the surety chooses to perform, it shall arrange for work 746
to begin within thirty days of the day on which it notifies the 747
chief of its decision. If the surety completes the work as 748
required by this chapter, the chief shall issue an order to the 749
surety releasing the surety from liability under the bond in the 750
same manner as if the surety were an operator proceeding under 751
this section. If, after the surety begins the work, the chief 752
determines that the surety is not carrying the work forward with 753
reasonable progress, or that it is improperly performing the work, 754
or that it has abandoned the work or otherwise failed to perform 755
its obligation and that of the operator, the chief shall issue an 756
order terminating the right of the surety to perform the work and 757
demanding payment of the amount due as required by this chapter. 758

If the surety chooses not to perform and so notifies the 759
chief, does not respond to the chief's notice within ten days of 760
receipt thereof, or fails to begin work within thirty days of the 761
day it timely notifies the chief of its decision to perform its 762
obligation and that of the operator, the chief shall issue an 763
order terminating the right of the surety to perform the work and 764
demanding payment of the amount due, as required by this chapter. 765

Upon receipt of an order of the chief demanding payment of 766
the amount due, the surety immediately shall deposit with the 767
chief cash in the full amount due under the order for deposit with 768
the treasurer of state. If the surety fails to make an immediate 769
deposit, the chief shall certify it to the attorney general for 770
collection. When the chief has issued an order terminating the 771
right of the surety and has the cash on deposit, the cash is the 772
property of the state and is available for use by the chief, who 773
shall proceed in accordance with section 1514.06 of the Revised 774
Code. 775

Sec. 1514.051. (A) If an operator or a partner or officer of 776
the operator forfeits a performance bond, the division of mineral 777
resources management shall have a priority lien in front of all 778
other interested creditors against the assets of that operator for 779
the amount that is needed to perform any reclamation that is 780
required as a result of the operator's mining activities. The 781
chief of the division of mineral resources management shall file a 782
statement in the office of the county recorder of each county in 783
which the mined land lies of the estimated costs to reclaim the 784
land. Estimated costs shall include direct and indirect costs of 785
the development, design, construction, management, and 786
administration of the reclamation. The statement shall constitute 787
a lien on the assets of the operator as of the date of the filing. 788
The lien shall continue in force so long as any portion of the 789
lien remains unpaid or until the chief issues a certificate of 790
release of the lien. If the chief issues a certificate of release 791
of the lien, the chief shall file a certificate of release in the 792
office of each applicable county recorder. 793

(B) The chief promptly shall issue a certificate of release 794
under any of the following circumstances: 795

(1) Upon the repayment in full of the money that is necessary 796

to complete the reclamation; 797

(2) Upon the issuance of a new permit to the operator of a 798
surface mine that forfeited the performance bond; 799

(3) Upon the transfer of an existing permit that includes the 800
areas of the surface mine for which reclamation was not completed 801
from the operator that forfeited the performance bond to a new 802
operator; 803

(4) Any other circumstance that the chief determines to be in 804
the best interests of the state. 805

(C) The chief may modify the amount of a lien under this 806
section. If the chief modifies a lien, the chief shall file a 807
statement in the office of the county recorder of each applicable 808
county of the new amount of the lien. However, the chief shall not 809
extinguish a lien under this section until the required 810
reclamation is completed and the chief issues a certificate 811
approving the reclamation. 812

(D) The chief may authorize a closing agent to hold a 813
certificate of release in escrow for a period not to exceed one 814
hundred eighty days for the purpose of facilitating the transfer 815
of unreclaimed mine land. 816

(E) All money from the collection of liens under this section 817
shall be deposited in the state treasury to the credit of the 818
industrial minerals bond forfeiture fund created in section 819
1514.06 of the Revised Code. 820

Sec. 1514.06. (A) There is hereby created in the state 821
treasury the ~~surface mining~~ industrial minerals bond forfeiture 822
~~fund. All cash~~ consisting of all money that becomes the property 823
of the state pursuant to section ~~1514.05~~ 1514.051 of the Revised 824
Code ~~shall be deposited in the fund, and expenditures~~ and money 825
credited to the fund under section 5749.02 of the Revised Code. 826

Expenditures from the fund shall be made by the chief of the 827
division of mineral resources management only for the purpose of 828
reclaiming areas of land affected by surface or in-stream mining 829
~~operations on which an~~ under a permit issued under this chapter 830
that the operator has defaulted failed to reclaim and for which 831
the performance bond filed by the operator is insufficient to 832
complete the reclamation. 833

(B) Expenditures of moneys from the fund, except as otherwise 834
provided by this section, shall be made pursuant to contracts 835
entered into by the chief with persons who agree to furnish all of 836
the materials, equipment, work, and labor, as specified and 837
provided in the contracts, for the prices stipulated therein. With 838
the approval of the director of natural resources, the chief may 839
reclaim the land in the same manner as the chief required of the 840
operator who ~~defaulted~~ failed to reclaim the land. Each contract 841
awarded by the chief shall be awarded to the lowest responsive and 842
responsible bidder, in accordance with section 9.312 of the 843
Revised Code, after sealed bids are received, opened, and 844
published at the time and place fixed by the chief. The chief 845
shall publish notice of the time and place at which bids will be 846
received, opened, and published, at least once at least ten days 847
before the date of the opening of the bids, in a newspaper of 848
general circulation in the county in which the area of land to be 849
reclaimed under the contract is located. If, after so advertising 850
for bids, no bids are received by the chief at the time and place 851
fixed for receiving them, the chief may advertise again for bids, 852
or, if the chief considers the public interest will be best 853
served, the chief may enter into a contract for the reclamation of 854
the area of land without further advertisement for bids. The chief 855
may reject any or all bids received and again publish notice of 856
the time and place at which bids for contracts will be received, 857
opened, and published. 858

(C) With the approval of the director, the chief, without 859
advertising for bids, may enter into a contract with the 860
landowner, a surface or in-stream mine operator or coal mine 861
operator mining under a current, valid permit issued under this 862
chapter or Chapter 1513. of the Revised Code, or a contractor 863
hired by a surety to complete reclamation, to carry out 864
reclamation on land affected by surface or in-stream mining 865
operations ~~on which~~ that an operator has ~~defaulted~~ failed to
reclaim. 866
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(D) With the approval of the director, the chief may carry 868
out all or part of the reclamation work on land affected by 869
surface or in-stream mining operations ~~on which~~ that the operator 870
has ~~defaulted~~ failed to reclaim using the employees and equipment 871
of any division of the department of natural resources. 872

(E) The chief shall require every contractor performing 873
reclamation work under this section to pay workers at the greater 874
of their regular rate of pay, as established by contract, 875
agreement, or prior custom or practice, or the average wage rate 876
paid in this state for the same or similar work, as determined by 877
the chief under section 1513.02 of the Revised Code. 878

(F) Each contract entered into by the chief under this 879
section shall provide only for the reclamation of land affected by 880
the surface or in-stream mining operation or operations of one 881
operator and not reclaimed by the operator as required by this 882
chapter. If there is money in the fund derived from the 883
performance bond deposited with the chief by one operator to 884
ensure the reclamation of two or more areas of land affected by 885
the surface or in-stream mining operation or operations of one 886
operator and not reclaimed by the operator as required by this 887
chapter, the chief may award a single contract for the reclamation 888
of all such areas of land. 889

(G) The cost of the reclamation work done under this section 890
on each area of land affected by surface or in-stream mining 891
operations ~~on which that~~ an operator has ~~defaulted~~ failed to 892
reclaim shall be paid out of the money in the fund derived from 893
the performance bond that was deposited with the chief to ensure 894
the reclamation of that area of land. If the amount of money is 895
not sufficient to pay the cost of doing all of the reclamation 896
work on the area of land that the operator should have done, but 897
failed to do, the chief may expend from the reclamation forfeiture 898
fund created in section 1513.18 of the Revised Code ~~or~~, the 899
surface mining fund created in section 1514.11 of the Revised 900
Code, or the fund created in this section the amount of money 901
needed to complete reclamation to the standards required by this 902
chapter. The operator is liable for that expense in addition to 903
any other liabilities imposed by law. At the request of the chief, 904
the attorney general shall bring an action against the operator 905
for the amount of the expenditures from either fund. Moneys so 906
recovered shall be deposited in the appropriate fund from which 907
the expenditures were made. 908

(H) If any part of the money in the ~~surface mining~~ industrial 909
minerals bond forfeiture fund remains in the fund after the chief 910
has caused the area of land to be reclaimed and has paid all the 911
reclamation costs and expenses, or if any money remains because 912
the area of land has been repermited under this chapter or 913
reclaimed by a person other than the chief, the chief may expend 914
the remaining money to complete other reclamation work performed 915
under this section. 916

Sec. 1514.09. The reclamation commission established pursuant 917
to section 1513.05 of the Revised Code shall serve as the 918
reclamation commission pursuant to this chapter. However, whenever 919
the commission is considering any appeal pertaining to surface or 920

in-stream mining, as distinguished from coal strip mining, the 921
member representing the coal strip mine operators shall be 922
replaced by a person who, by reason of the person's previous 923
vocation, employment, or affiliations, can be classed as a 924
representative of surface or in-stream mine operators, as 925
applicable. The appointment of that person shall be made in 926
accordance with section 1513.05 of the Revised Code, and the 927
person's term shall be concurrent with that of the representative 928
of the coal strip mine operators. 929

No party to an appeal brought under this section shall be 930
eligible for an award of attorney's fees, costs, or expenses from 931
the commission or any court. 932

Notwithstanding section 1513.13 of the Revised Code, an 933
operator may appeal the determination of the chief of the division 934
of mineral resources management that is made under section 1514.43 935
of the Revised Code within ten days after the operator receives a 936
copy of the determination. 937

Notwithstanding section 1513.14 of the Revised Code, appeals 938
from an order of the commission pertaining to surface or in-stream 939
mining may be taken to the court of common pleas of the county in 940
which the operation is located, or to the court of common pleas of 941
Franklin county. 942

Sec. 1514.11. ~~In addition to the purposes authorized in 943
section 1514.06 of the Revised Code, the~~ There is hereby created 944
in the state treasury the surface mining fund. The chief of the 945
division of mineral resources management may use moneys in the 946
~~surface mining fund created under that section~~ for the 947
administration and enforcement of this chapter, and for the 948
reclamation of land affected by surface or in-stream mining under 949
a permit issued under this chapter that the operator failed to 950
reclaim and for which the performance bond filed by the operator 951

is insufficient to complete the reclamation, ~~and for the~~ 952
~~reclamation of land affected by surface or in stream mining that~~ 953
~~was abandoned and left unreclaimed and for which no permit was~~ 954
~~issued or bond filed under this chapter.~~ Also, the chief may use 955
the portion of the surface mining fund that consists of moneys 956
collected from the severance taxes levied under section 5749.02 of 957
the Revised Code for ~~the~~ mine safety and first aid ~~classes~~ 958
~~provided under division (C) of section 1561.26 of the Revised Code~~ 959
training. For purposes of this section, the chief shall expend 960
moneys in the fund in accordance with the procedures and 961
requirements established in section 1514.06 of the Revised Code 962
and may enter into contracts and perform work in accordance with 963
that section. 964

Fees collected under sections 1514.02 and 1514.03 of the 965
Revised Code, ~~one half of the portion of~~ the moneys collected from 966
the severance taxes levied under divisions (A)(3) and (4) of 967
section 5749.02 of the Revised Code that is specified in division 968
(B) of that section, and all of the moneys collected from the 969
severance tax levied under division (A)(7) of section 5749.02 of 970
the Revised Code shall be credited to the fund in accordance with 971
those sections. Notwithstanding any section of the Revised Code 972
relating to the distribution or crediting of fines for violations 973
of the Revised Code, all fines imposed under section 1514.99 of 974
the Revised Code shall be credited to the fund. 975

Sec. 1514.40. In accordance with Chapter 119. of the Revised 976
Code, the chief of the division of mineral resources management, 977
in consultation with a statewide association that represents the 978
surface mining industry, shall adopt rules that do all of the 979
following: 980

(A) For the purpose of establishing safety standards 981
governing surface mining operations, incorporate by reference 30 982

<u>C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended;</u>	983
<u>(B) Establish criteria, standards, and procedures governing safety performance evaluations conducted under section 1514.45 of the Revised Code, including requirements for the notification of operators and the identification of authorized representatives of miners at surface mining operations for purposes of inspections conducted under sections 1541.41 to 1541.47 of the Revised Code;</u>	984 985 986 987 988 989
<u>(C) Establish requirements governing the reporting and investigation of accidents at surface mining operations. In adopting the rules, the chief shall establish requirements that minimize duplication with any reporting and investigations of accidents that are conducted by the mine safety and health administration in the United States department of labor.</u>	990 991 992 993 994 995
<u>(D) Establish a fee, if any, for the purpose of section 1514.46 of the Revised Code. The amount of the fee shall be equal to the costs of conducting the training that is required under that section.</u>	996 997 998 999
<u>(E) Establish the minimum qualifications necessary to take the examination that is required for certification of certified mine forepersons under division (B) of section 1514.47 of the Revised Code and requirements and procedures governing the taking of the examination;</u>	1000 1001 1002 1003 1004
<u>(F) Establish requirements governing the renewal of certificates under division (C) of that section;</u>	1005 1006
<u>(G) Establish requirements and procedures for the approval of training plans submitted under division (E) of that section for the use of qualified persons to conduct examinations of surface mining operations in lieu of certified mine forepersons and minimum qualifications of those persons. The rules shall include requirements governing training frequency and curriculum that must be provided for qualified persons under such plans and shall</u>	1007 1008 1009 1010 1011 1012 1013

establish related reporting and record keeping requirements. 1014

As used in sections 1514.41 to 1514.47 of the Revised Code, 1015
"rule" means a rule adopted under this section unless the context 1016
indicates otherwise. 1017

Sec. 1514.41. (A) If a surface mining operation is not 1018
inspected by the mine safety and health administration in the 1019
United States department of labor, the chief of the division of 1020
mineral resources management annually shall conduct a minimum of 1021
two inspections of the operation. 1022

(B) If a surface mining operation is identified through a 1023
safety performance evaluation conducted under section 1514.45 of 1024
the Revised Code and rules as having lost-time accidents in an 1025
amount greater than the national average, the chief shall conduct 1026
a minimum of two inspections of the operation for one year 1027
following the identification. 1028

(C) If a fatality of a miner occurs at a surface mining 1029
operation as a result of an unsafe condition or a practice at the 1030
operation, the chief shall conduct a minimum of one inspection 1031
every three months at the operation for two years following the 1032
fatality. 1033

(D) If a life-threatening injury of a miner occurs at a 1034
surface mining operation as a result of an unsafe condition or a 1035
practice at the operation, the chief shall conduct a minimum of 1036
one inspection every three months at the operation for one year 1037
following the injury. 1038

Sec. 1514.42. The chief of the division of mineral resources 1039
management may conduct a safety audit at a surface mining 1040
operation if the operator of the operation has requested the 1041
division of mineral resources management to conduct safety 1042
training. The chief may conduct additional safety audits at any 1043

surface mining operation if requested by the operator of the 1044
operation. If the chief conducts a safety audit, the operator 1045
shall ensure that the chief has a copy of the training plan that 1046
is required by 30 C.F.R. part 46, as amended, at the time of the 1047
audit. 1048

After completion of an audit, the chief shall prepare a 1049
report that describes the general conditions of the surface mining 1050
operation, lists any hazardous conditions at the operation, lists 1051
any violations of the safety standards established in rules, and 1052
describes the nature and extent of any hazardous condition or 1053
violation found and the corresponding remedy for each hazardous 1054
condition or violation. The chief shall provide two copies of the 1055
report to the operator of the operation. The operator shall post 1056
one copy of the report at the operation for review by the 1057
employees of the operation. 1058

Sec. 1514.43. (A) The chief of the division of mineral 1059
resources management shall enforce the safety standards 1060
established in rules when conducting inspections under section 1061
1514.41 of the Revised Code. 1062

(B) Except as otherwise provided in section 1514.44 of the 1063
Revised Code or pursuant to a safety audit conducted under section 1064
1514.42 of the Revised Code, if during an inspection the chief 1065
finds a violation of a safety standard, the chief shall require 1066
the operator to comply with the standard that is being violated 1067
within a reasonable period of time. If the chief finds a violation 1068
of a safety standard, the chief shall return to the surface mining 1069
operation after a reasonable period of time to determine if the 1070
operator has complied with the standard that was being violated. 1071
If the operator has failed to comply with the standard, the chief 1072
shall take appropriate action to obtain compliance if necessary. 1073

(C) Except as otherwise provided in section 1514.44 of the Revised Code or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, after completion of an inspection of a surface mining operation, the chief or the chief's designated representative shall prepare a report that describes the general conditions of the surface mining operation, lists any hazardous conditions at the operation, lists any violations of the safety standards established in rules, and describes the nature and extent of any hazardous condition or violation found and the corresponding remedy for each hazardous condition or violation. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

(D) Except pursuant to a safety audit conducted under section 1514.42 of the Revised Code, not later than ten days after receipt of a report under this section, the operator may submit a written request to the chief for a meeting with the chief to review the findings contained in the report. Upon receipt of a request, the chief shall review the report and schedule a meeting with the operator. Within a reasonable period of time after the meeting, the chief shall make a written determination concerning the findings contained in the report and provide one copy of the determination to the operator of the surface mining operation and one copy of the determination to an authorized representative of the miners at the operation. If the chief makes a determination that affirms the findings contained in the report, the chief's determination constitutes an order for purposes of this chapter and rules adopted under it.

(E) No operator shall violate or fail to comply with an order issued pursuant to this section.

Sec. 1514.44. If during an inspection conducted under section

1514.41 of the Revised Code or a safety audit conducted under 1105
section 1514.42 of the Revised Code, the chief of the division of 1106
mineral resources management finds a condition or practice at a 1107
surface mining operation that could reasonably be expected to 1108
cause the death of or imminent serious physical harm to an 1109
employee of the operation, the chief immediately shall issue 1110
orders to safeguard the employees, notify the operator of the 1111
condition or practice, and require the operator to abate the 1112
condition or practice within a reasonable period of time. In all 1113
such situations, the chief may require the operation to cease in 1114
the area in which the condition or practice is occurring or may 1115
require the entire operation to cease, if necessary, until the 1116
condition or practice that could reasonably be expected to cause 1117
death or serious physical harm is eliminated. 1118

The chief shall complete a report that describes the 1119
condition or practice and the action taken to eliminate it. The 1120
chief shall provide two copies of the report to the operator of 1121
the operation. The operator shall post one copy of the report at 1122
the operation for review by the employees of the operation. 1123

Sec. 1514.45. The chief of the division of mineral resources 1124
management annually shall conduct a safety performance evaluation 1125
of all surface mining operations in the state in accordance with 1126
rules. The operator of a surface mining operation shall provide to 1127
the chief a copy of the notification of legal identity required 1128
under 30 C.F.R. part 41, as amended, at the same time that the 1129
notice is filed with the mine safety and health administration in 1130
the United State department of labor. 1131

Sec. 1514.46. As resources allow, the chief of the division 1132
of mineral resources management shall conduct safety training for 1133
miners at surface mining operations. The safety training shall 1134

emphasize the standards adopted in rules and include any other 1135
content that the chief determines is beneficial. The chief may 1136
charge a fee in an amount that is established in rules. Any fees 1137
collected under this section shall be deposited in the state 1138
treasury to the credit of the surface mining fund created in 1139
section 1514.11 of the Revised Code. 1140

Sec. 1514.47. (A) The operator of a surface mining operation 1141
shall employ a certified mine foreperson or a person who is 1142
qualified in accordance with section 1514.50 of the Revised Code 1143
and rules adopted under it to conduct examinations of surface 1144
mining operations for purposes of 30 C.F.R. part 56, as amended. 1145

(B) The chief of the division of mineral resources management 1146
shall conduct examinations for the position of certified mine 1147
foreperson in accordance with rules. In order to be eligible for 1148
examination as a certified mine foreperson, an applicant shall 1149
file with the chief an affidavit establishing the applicant's 1150
qualifications to take the examination. The chief shall grade 1151
examinations and issue certificates. 1152

(C) A certificate issued under this section shall expire five 1153
years after the date of issuance. A certificate may be renewed, 1154
provided that the applicant verifies that all required training 1155
pursuant to 30 C.F.R. part 46, as amended, has been completed and 1156
any other requirements for renewal have been satisfied. 1157

(D) If a certificate issued under this section is suspended, 1158
the certificate shall not be renewed until the suspension period 1159
expires and the person whose certificate is suspended successfully 1160
completes all actions required by the chief. If an applicant's 1161
license, certificate, or similar authority that is issued by 1162
another state to perform specified mining duties is suspended or 1163
revoked by that state, the applicant shall be ineligible for 1164

examination for or renewal of a certificate in this state during 1165
that period of suspension or revocation. A certificate that has 1166
been revoked shall not be renewed. 1167

If a person who has been certified by the chief under this 1168
section purposely violates this chapter, the chief may suspend or 1169
revoke the certificate after an investigation and hearing 1170
conducted in accordance with Chapter 119. of the Revised Code are 1171
completed. 1172

(E) In lieu of employing a certified mine foreperson, the 1173
operator of a surface mining operation may submit to the chief a 1174
detailed training plan under which persons who qualify under the 1175
plan may conduct and document examinations at the surface mining 1176
operation for purposes of 30 C.F.R. part 56, as amended. The chief 1177
shall review the plan and determine if the plan complies with the 1178
requirements established in rules. The chief shall approve or deny 1179
the plan and notify in writing the operator who submitted the plan 1180
of the chief's decision. 1181

Sec. 1514.50. (A) The chief of the division of mineral 1182
resources management or an authorized employee of the division of 1183
mineral resources management may enter on lands to make 1184
inspections in accordance with this chapter and rules adopted 1185
under it when necessary in the discharge of the duties specified 1186
in this chapter and the rules. No person shall prevent or hinder 1187
the chief or an authorized employee of the division in the 1188
performance of those duties. 1189

(B) For purposes of performing reclamation of land affected 1190
by surface mining operations on which the holder of a permit 1191
issued under this chapter has defaulted or otherwise failed to 1192
timely conduct the reclamation required by section 1514.05 of the 1193
Revised Code, the chief may enter on the land and perform 1194
reclamation that the chief determines is necessary to protect 1195

public health or safety or the environment. In order to perform 1196
the reclamation, the chief may enter on adjoining land or other 1197
land that is necessary to access the land on which the surface 1198
mining occurred and on which the reclamation is to be performed. 1199
The chief shall provide reasonable advance notice to the owner of 1200
any land to be entered for the purpose of access for reclamation 1201
under this chapter. The division shall return the land that was 1202
used to access the former surface mining operation to the same or 1203
an improved grade, topography, and condition that existed prior to 1204
its use by the division. 1205

(C) When conducting investigations pursuant to section 1206
1514.13 of the Revised Code, the chief or an authorized employee 1207
of the division may enter on lands to conduct water supply 1208
surveys, measure ground water levels and collect data when 1209
necessary to define the cone of depression, or perform other 1210
duties for the purposes of that section. 1211

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of 1212
section 1514.10 of the Revised Code may be fined not more than 1213
five thousand dollars plus not more than one thousand dollars per 1214
acre of land affected, and is responsible for achieving 1215
reclamation of the land as required pursuant to this chapter. 1216

(B) Whoever violates division (B) of section 1514.10 of the 1217
Revised Code may be fined not more than one thousand dollars per 1218
acre of land affected that is not under permit, and is responsible 1219
for achieving reclamation of the land as required pursuant to this 1220
chapter. 1221

(C) Whoever violates division (C) of section 1514.10 of the 1222
Revised Code may be fined not less than one hundred nor more than 1223
one thousand dollars, or imprisoned not more than six months, or 1224
both. 1225

(D) Whoever violates division (D), (E), (F), or (G) of 1226
section 1514.10 of the Revised Code may be fined not less than one 1227
hundred nor more than one thousand dollars for a first offense. 1228
For each subsequent offense, on one or more permits held by such 1229
persons, such person may be fined not less than two hundred nor 1230
more than five thousand dollars, or imprisoned not more than six 1231
months, or both. The permit of any person convicted of a third 1232
offense may be revoked by the court at the time of that 1233
conviction, and the court at that time may further order that no 1234
permit or amendment to a permit may be issued to that person under 1235
this chapter for a period of five years from the date of the 1236
conviction. Nothing contained in this section shall be construed 1237
to limit or affect the authority of the chief of the division of 1238
mineral resources management granted by this chapter. 1239

(E) Whoever violates an order of the chief of the division of 1240
mineral resources management issued under this chapter is guilty 1241
of a minor misdemeanor. 1242

Sec. 1561.011. Nothing in this chapter applies to activities 1243
that are permitted and regulated under Chapter 1514. of the 1244
Revised Code. 1245

Sec. 1563.01. Nothing in this chapter applies to activities 1246
that are permitted and regulated under Chapter 1514. of the 1247
Revised Code. 1248

Sec. 1565.01. Nothing in this chapter applies to activities 1249
that are permitted and regulated under Chapter 1514. of the 1250
Revised Code. 1251

Sec. 1567.01. Nothing in this chapter applies to activities 1252
that are permitted and regulated under Chapter 1514. of the 1253
Revised Code. 1254

Sec. 1571.011. Nothing in this chapter applies to activities 1255
that are permitted and regulated under Chapter 1514. of the 1256
Revised Code. 1257

Sec. 5749.02. (A) For the purpose of providing revenue to 1258
administer the state's coal mining and reclamation regulatory 1259
program, to meet the environmental and resource management needs 1260
of this state, and to reclaim land affected by mining, an excise 1261
tax is hereby levied on the privilege of engaging in the severance 1262
of natural resources from the soil or water of this state. The tax 1263
shall be imposed upon the severer and shall be: 1264

(1) Seven cents per ton of coal; 1265

(2) Four cents per ton of salt; 1266

(3) Two cents per ton of limestone or dolomite; 1267

(4) Two cents per ton of sand and gravel; 1268

(5) Ten cents per barrel of oil; 1269

(6) Two and one-half cents per thousand cubic feet of natural 1270
gas; 1271

(7) One cent per ton of clay, sandstone or conglomerate, 1272
shale, gypsum, or quartzite. 1273

(B) Of the moneys received by the treasurer of state from the 1274
tax levied in division (A)(1) of this section, six and 1275
three-tenths per cent shall be credited to the geological mapping 1276
fund created in section 1505.09 of the Revised Code, fourteen and 1277
two-tenths per cent shall be credited to the reclamation 1278
forfeiture fund created in section 1513.18 of the Revised Code, 1279
fifty-seven and nine-tenths per cent shall be credited to the coal 1280
mining administration and reclamation reserve fund created in 1281
section 1513.181 of the Revised Code, and the remainder shall be 1282
credited to the unreclaimed lands fund created in section 1513.30 1283

of the Revised Code. When, at any time during a fiscal year, the
chief of the division of mineral resources management finds that
the balance of the coal mining administration and reclamation
reserve fund is below two million dollars, the chief shall certify
that fact to the director of budget and management. Upon receipt
of the chief's certification, the director shall direct the tax
commissioner to instead credit to the coal mining administration
and reclamation reserve fund during the remainder of the fiscal
year for which the certification is made the fourteen and
two-tenths per cent of the moneys collected from the tax levied in
division (A)(1) of this section and otherwise required by this
division to be credited to the reclamation forfeiture fund.

~~Fifteen per cent~~ All of the moneys received by the treasurer
of state from the tax levied in division (A)(2) of this section
shall be credited to the geological mapping fund ~~and the remainder~~
~~shall be credited to the unreclaimed lands fund.~~

Of the moneys received by the treasurer of state from the tax
levied in divisions (A)(3) and (4) of this section, seven and
five-tenths per cent shall be credited to the geological mapping
fund, ~~forty two and five tenths~~ fifty per cent shall be credited
to the ~~unreclaimed lands fund, and the remainder shall be credited~~
~~to the surface mining fund created in section 1514.06~~ 1514.11 of
the Revised Code, and forty-two and five-tenths per cent shall be
credited as follows:

(1) In the first, second, and third fiscal years following
the effective date of this amendment, seventeen per cent to the
surface mining fund, the amount of which shall not exceed two
hundred thousand dollars per fiscal year, forty-one and
five-tenths per cent to the industrial minerals bond forfeiture
fund created in section 1514.06 of the Revised Code, the amount of
which shall not exceed five hundred thousand dollars per fiscal
year, and forty-one and five-tenths per cent, together with any

money in excess of the maximum amounts that may be credited per 1316
fiscal year under this division to the surface mining fund and the 1317
industrial minerals bond forfeiture fund, to the surface mining 1318
operations infrastructure improvements fund created under section 1319
315.09 of the Revised Code for the county in which the severance 1320
of limestone, dolomite, sand, or gravel from the soil or water of 1321
the state has occurred; 1322

(2) In the fourth and fifth fiscal years following the 1323
effective date of this amendment, seventeen per cent to the 1324
surface mining fund, the amount of which shall not exceed two 1325
hundred thousand dollars per fiscal year, twenty-four and 1326
nine-tenths per cent to the industrial minerals bond forfeiture 1327
fund, the amount of which shall not exceed three hundred thousand 1328
dollars per fiscal year, and fifty-eight and one-tenths per cent, 1329
together with any money in excess of the maximum amounts that may 1330
be credited per fiscal year under this division to the surface 1331
mining fund and the industrial minerals bond forfeiture fund, to 1332
the surface mining operations infrastructure improvements fund 1333
created under section 315.09 of the Revised Code for the county in 1334
which the severance of limestone, dolomite, sand, or gravel from 1335
the soil or water of the state has occurred; 1336

(3) In the sixth fiscal year following the effective date of 1337
this amendment, seventeen per cent to the surface mining fund, the 1338
amount of which shall not exceed two hundred thousand dollars per 1339
fiscal year, sixteen and six-tenths per cent to the industrial 1340
minerals bond forfeiture fund, the amount of which shall not 1341
exceed two hundred thousand dollars per fiscal year, and sixty-six 1342
and four-tenths per cent, together with any money in excess of the 1343
maximum amounts that may be credited per fiscal year under this 1344
division to the surface mining fund and the industrial minerals 1345
bond forfeiture fund, to the surface mining operations 1346
infrastructure improvements fund created under section 315.09 of 1347

the Revised Code for the county in which the severance of 1348
limestone, dolomite, sand, or gravel from the soil or water of the 1349
state has occurred; 1350

(4) In the seventh and eighth fiscal year following the 1351
effective date of this amendment, seventeen per cent to the 1352
surface mining fund, the amount of which shall not exceed two 1353
hundred thousand dollars per fiscal year, eight and three-tenths 1354
per cent to the industrial minerals bond forfeiture fund, the 1355
amount of which shall not exceed one hundred thousand dollars per 1356
fiscal year, and seventy-four and seven-tenths per cent, together 1357
with any money in excess of the maximum amounts that may be 1358
credited per fiscal year under this division to the surface mining 1359
fund and the industrial minerals bond forfeiture fund, to the 1360
surface mining operations infrastructure improvements fund created 1361
under section 315.09 of the Revised Code for the county in which 1362
the severance of limestone, dolomite, sand, or gravel from the 1363
soil or water of the state has occurred; 1364

(5) Every fiscal year after the eighth fiscal year following 1365
the effective date of this amendment, seventeen per cent to the 1366
surface mining fund, the amount of which shall not exceed two 1367
hundred thousand dollars per fiscal year, six and two-tenths per 1368
cent to the industrial minerals bond forfeiture fund, the amount 1369
of which shall not exceed seventy-five thousand dollars per fiscal 1370
year, and seventy-six and eight-tenths per cent, together with any 1371
money in excess of the maximum amounts that may be credited per 1372
fiscal year under this division to the surface mining fund and the 1373
industrial minerals bond forfeiture fund, to the surface mining 1374
operations infrastructure improvements fund created under section 1375
315.09 of the Revised Code for the county in which the severance 1376
of limestone, dolomite, sand, or gravel from the soil or water of 1377
the state has occurred. If the balance of the industrial minerals 1378
bond forfeiture fund exceeds five hundred thousand dollars at any 1379

time during a fiscal year, six and two-tenths per cent shall be 1380
credited to the surface mining operations infrastructure 1381
improvements fund created under section 315.09 of the Revised Code 1382
for the county in which the severance of limestone, dolomite, 1383
sand, or gravel from the soil or water of the state has occurred 1384
rather than to the industrial minerals bond forfeiture fund. 1385
However, if the balance of the industrial minerals bond forfeiture 1386
fund at any time during a fiscal year is less than five hundred 1387
thousand dollars, six and two-tenths per cent shall continue to be 1388
credited to the industrial minerals bond forfeiture fund, the 1389
amount of which shall not exceed seventy-five thousand dollars per 1390
fiscal year. 1391

In order to ensure that moneys received from the tax levied 1392
in divisions (A)(3) and (4) of this section are credited to the 1393
appropriate funds as specified in divisions (B)(1) to (5) of this 1394
section, the chief shall certify amounts received and fund 1395
balances as necessary to the director of budget and management. 1396
Upon receipt of a certification from the chief, the director shall 1397
direct the tax commissioner to credit moneys from the tax to the 1398
appropriate funds as necessary in accordance with those divisions. 1399

Of the moneys received by the treasurer of state from the tax 1400
levied in divisions (A)(5) and (6) of this section, ninety per 1401
cent shall be credited to the oil and gas well fund created in 1402
section 1509.02 of the Revised Code and ten per cent shall be 1403
credited to the geological mapping fund. All of the moneys 1404
received by the treasurer of state from the tax levied in division 1405
(A)(7) of this section shall be credited to the surface mining 1406
fund. 1407

(C) For the purpose of paying the state's expenses for 1408
reclaiming mined lands that the operator failed to reclaim under a 1409
coal mining and reclamation permit issued under Chapter 1513. of 1410
the Revised Code, or under a surface mining permit issued under 1411

Chapter 1514. of the Revised Code, for which the operator's bond 1412
is not sufficient to pay the state's expense for reclamation, 1413
there is hereby levied an excise tax on the privilege of engaging 1414
in the severance of coal from the soil or water of this state in 1415
addition to the taxes levied by divisions (A)(1) and (D) of this 1416
section. The tax shall be imposed at the rate of one cent per ton 1417
of coal. Moneys received by the treasurer of state from the tax 1418
levied under this division shall be credited to the reclamation 1419
forfeiture fund created in section 1513.18 of the Revised Code. 1420

(D) For the purpose of paying the state's expenses for 1421
reclaiming coal mined lands that the operator failed to reclaim in 1422
accordance with Chapter 1513. of the Revised Code under a coal 1423
mining and reclamation permit issued after April 10, 1972, but 1424
before September 1, 1981, for which the operator's bond is not 1425
sufficient to pay the state's expense for reclamation and paying 1426
the expenses for administering the state's coal mining and 1427
reclamation regulatory program, there is hereby levied an excise 1428
tax on the privilege of engaging in the severance of coal from the 1429
soil or water of this state in addition to the taxes levied by 1430
divisions (A)(1) and (C) of this section. The tax shall be imposed 1431
at the rate of one cent per ton of coal as prescribed in this 1432
division. Moneys received by the treasurer of state from the tax 1433
levied by this division shall be credited to the reclamation 1434
forfeiture fund created in section 1513.18 of the Revised Code. 1435

When, at the close of any fiscal year, the chief finds that 1436
the balance of the reclamation forfeiture fund, plus estimated 1437
transfers to it from the coal mining and reclamation reserve fund 1438
under section 1513.181 of the Revised Code, plus the estimated 1439
revenues from the tax levied by this division for the remainder of 1440
the calendar year that includes the close of the fiscal year, are 1441
sufficient to complete the reclamation of such lands, the purposes 1442
for which the tax under this division is levied shall be deemed 1443

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.

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(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.

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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
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.

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Section 2. That existing sections 303.02, 303.14, 519.02,
519.14, 1513.30, 1514.01, 1514.04, 1514.05, 1514.06, 1514.09,
1514.11, 1514.99, and 5749.02 of the Revised Code are hereby

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repealed. 1475

Section 3. Not later than five years after the effective date 1476
of this act, the Chief of the Division of Mineral Resources 1477
Management shall submit a report to the Governor summarizing the 1478
activities of the Division of Mineral Resources Management under 1479
sections 1514.40 to 1514.47 of the Revised Code, as enacted by 1480
this act, trends in miner accident rates, and the number and 1481
causes of life-threatening accidents and fatalities since the 1482
effective date of this act. In addition, the report shall compare 1483
those trends and accident rates with the trends and accident rates 1484
that occurred ten years prior to the effective date of this act 1485
and, if necessary, recommend changes to those sections in order to 1486
improve miner health or safety. 1487

Section 4. The Surface Mining Fund created in section 1514.11 1488
of the Revised Code, as enacted by this act, is a continuation of 1489
the Surface Mining Fund that was created in section 1514.06 of the 1490
Revised Code as that section existed prior to its amendment by 1491
this act. Money credited to the fund under the former version of 1492
section 1514.06 of the Revised Code shall be used for the purposes 1493
specified in section 1514.11 of the Revised Code, as enacted by 1494
this act. 1495

Section 5. Sections 303.02 and 519.02 of the Revised Code are 1496
presented in this act as composites of the sections as amended by 1497
both Sub. H.B. 411 and Am. Sub. S.B. 18 of the 125th General 1498
Assembly. The General Assembly, applying the principle stated in 1499
division (B) of section 1.52 of the Revised Code that amendments 1500
are to be harmonized if reasonably capable of simultaneous 1501
operation, finds that the composites are the resulting versions of 1502
the sections in effect prior to the effective dates of the 1503
sections as presented in this act. 1504