

As Passed by the House

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Sub. S. B. No. 386

Senator Grendell

Cosponsors: Senators Wilson, Carey, Cafaro, Padgett, Schaffer, Seitz,

Niehaus, Austria, Harris, Patton, Schuler

Representatives Aslanides, Batchelder, Bolon, Coley, Combs, Domenick,

Dyer, Flowers, Gardner, Gibbs, Grady, Hite, Hughes, Mandel, McGregor, J.,

Mecklenborg, Nero, Sayre, Schlichter, Wachtmann

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A B I L L

To amend section 1513.07 and to enact section 1
1513.076 of the Revised Code to provide for the 2
timely issuance of coal mining and reclamation 3
permits. 4

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

Section 1. That section 1513.07 be amended and section 5
1513.076 of the Revised Code be enacted to read as follows: 6

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 7
operation without a permit for the operation issued by the chief 8
of the division of mineral resources management. 9

(2) All permits issued pursuant to this chapter shall be 10
issued for a term not to exceed five years, except that, if the 11
applicant demonstrates that a specified longer term is reasonably 12
needed to allow the applicant to obtain necessary financing for 13
equipment and the opening of the operation and if the application 14
is full and complete for the specified longer term, the chief may 15

grant a permit for the longer term. A successor in interest to a 16
permittee who applies for a new permit within thirty days after 17
succeeding to the interest and who is able to obtain the 18
performance security of the original permittee may continue coal 19
mining and reclamation operations according to the approved mining 20
and reclamation plan of the original permittee until the 21
successor's application is granted or denied. 22

(3) A permit shall terminate if the permittee has not 23
commenced the coal mining operations covered by the permit within 24
three years after the issuance of the permit, except that the 25
chief may grant reasonable extensions of the time upon a showing 26
that the extensions are necessary by reason of litigation 27
precluding the commencement or threatening substantial economic 28
loss to the permittee or by reason of conditions beyond the 29
control and without the fault or negligence of the permittee, and 30
except that with respect to coal to be mined for use in a 31
synthetic fuel facility or specified major electric generating 32
facility, the permittee shall be deemed to have commenced coal 33
mining operations at the time construction of the synthetic fuel 34
or generating facility is initiated. 35

(4)(a) Any permit issued pursuant to this chapter shall carry 36
with it the right of successive renewal upon expiration with 37
respect to areas within the boundaries of the permit. The holders 38
of the permit may apply for renewal and the renewal shall be 39
issued unless the chief determines by written findings, subsequent 40
to fulfillment of the public notice requirements of this section 41
and section 1513.071 of the Revised Code through demonstrations by 42
opponents of renewal or otherwise, that one or more of the 43
following circumstances exists: 44

(i) The terms and conditions of the existing permit are not 45
being satisfactorily met. 46

(ii) The present coal mining and reclamation operation is not 47

in compliance with the environmental protection standards of this 48
chapter. 49

(iii) The renewal requested substantially jeopardizes the 50
operator's continuing responsibilities on existing permit areas. 51

(iv) The applicant has not provided evidence that the 52
performance security in effect for the operation will continue in 53
effect for any renewal requested in the application. 54

(v) Any additional, revised, or updated information required 55
by the chief has not been provided. Prior to the approval of any 56
renewal of a permit, the chief shall provide notice to the 57
appropriate public authorities as prescribed by rule of the chief. 58

(b) If an application for renewal of a valid permit includes 59
a proposal to extend the mining operation beyond the boundaries 60
authorized in the existing permit, the portion of the application 61
for renewal of a valid permit that addresses any new land areas 62
shall be subject to the full standards applicable to new 63
applications under this chapter. 64

(c) A permit renewal shall be for a term not to exceed the 65
period of the original permit established by this chapter. 66
Application for permit renewal shall be made at least one hundred 67
twenty days prior to the expiration of the valid permit. 68

(5) A permit issued pursuant to this chapter does not 69
eliminate the requirements for obtaining a permit to install or 70
modify a disposal system or any part thereof or to discharge 71
sewage, industrial waste, or other wastes into the waters of the 72
state in accordance with Chapter 6111. of the Revised Code. 73

(B)(1) The permit application shall be submitted in a manner 74
satisfactory to the chief and shall contain, among other things, 75
all of the following: 76

(a) The names and addresses of all of the following: 77

(i) The permit applicant;	78
(ii) Every legal owner of record of the property, surface and mineral, to be mined;	79 80
(iii) The holders of record of any leasehold interest in the property;	81 82
(iv) Any purchaser of record of the property under a real estate contract;	83 84
(v) The operator if different from the applicant;	85
(vi) If any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and statutory agent for service of process.	86 87 88
(b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;	89 90 91
(c) A statement of any current or previous coal mining permits in the United States held by the applicant, the permit identification, and any pending applications;	92 93 94
(d) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, the name and address of any person owning, of record, ten per cent or more of any class of voting stock of the applicant, a list of all names under which the applicant, partner, or principal shareholder previously operated a coal mining operation within the United States within the five-year period preceding the date of submission of the application, and a list of the person or persons primarily responsible for ensuring that the applicant complies with the requirements of this chapter and rules adopted pursuant thereto while mining and reclaiming under the	95 96 97 98 99 100 101 102 103 104 105 106 107

permit; 108

(e) A statement of whether the applicant, any subsidiary, 109
affiliate, or persons controlled by or under common control with 110
the applicant, any partner if the applicant is a partnership, any 111
officer, principal shareholder, or director if the applicant is a 112
corporation, or any other person who has a right to control or in 113
fact controls the management of the applicant or the selection of 114
officers, directors, or managers of the applicant: 115

(i) Has ever held a federal or state coal mining permit that 116
in the five-year period prior to the date of submission of the 117
application has been suspended or revoked or has had a coal mining 118
bond, performance security, or similar security deposited in lieu 119
of bond forfeited and, if so, a brief explanation of the facts 120
involved; 121

(ii) Has been an officer, partner, director, principal 122
shareholder, or person having the right to control or has in fact 123
controlled the management of or the selection of officers, 124
directors, or managers of a business entity that has had a coal 125
mining or surface mining permit that in the five-year period prior 126
to the date of submission of the application has been suspended or 127
revoked or has had a coal mining or surface mining bond, 128
performance security, or similar security deposited in lieu of 129
bond forfeited and, if so, a brief explanation of the facts 130
involved. 131

(f) A copy of the applicant's advertisement to be published 132
in a newspaper of general circulation in the locality of the 133
proposed site at least once a week for four successive weeks, 134
which shall include the ownership of the proposed mine, a 135
description of the exact location and boundaries of the proposed 136
site sufficient to make the proposed operation readily 137
identifiable by local residents, and the location where the 138
application is available for public inspection; 139

(g) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;	140 141 142
(h) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;	143 144 145
(i) An accurate map or plan, to an appropriate scale, clearly showing the land to be affected and the land upon which the applicant has the legal right to enter and commence coal mining operations, copies of those documents upon which is based the applicant's legal right to enter and commence coal mining operations, and a statement whether that right is the subject of pending litigation. This chapter does not authorize the chief to adjudicate property title disputes.	146 147 148 149 150 151 152 153
(j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged;	154 155 156
(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application;	157 158 159 160 161 162 163 164 165 166 167 168 169 170

(l) When requested by the chief, the climatological factors 171
that are peculiar to the locality of the land to be affected, 172
including the average seasonal precipitation, the average 173
direction and velocity of prevailing winds, and the seasonal 174
temperature ranges; 175

(m) Accurate maps prepared by or under the direction of and 176
certified by a qualified registered professional engineer, 177
registered surveyor, or licensed landscape architect to an 178
appropriate scale clearly showing all types of information set 179
forth on topographical maps of the United States geological survey 180
of a scale of not more than four hundred feet to the inch, 181
including all artificial features and significant known 182
archeological sites. The map, among other things specified by the 183
chief, shall show all boundaries of the land to be affected, the 184
boundary lines and names of present owners of record of all 185
surface areas abutting the permit area, and the location of all 186
buildings within one thousand feet of the permit area. 187

(n)(i) Cross-section maps or plans of the land to be affected 188
including the actual area to be mined, prepared by or under the 189
direction of and certified by a qualified registered professional 190
engineer or certified professional geologist with assistance from 191
experts in related fields such as hydrology, hydrogeology, 192
geology, and landscape architecture, showing pertinent elevations 193
and locations of test borings or core samplings and depicting the 194
following information: the nature and depth of the various strata 195
of overburden; the nature and thickness of any coal or rider seam 196
above the coal seam to be mined; the nature of the stratum 197
immediately beneath the coal seam to be mined; all mineral crop 198
lines and the strike and dip of the coal to be mined within the 199
area to be affected; existing or previous coal mining limits; the 200
location and extent of known workings of any underground mines, 201
including mine openings to the surface; the location of spoil, 202

waste, or refuse areas and topsoil preservation areas; the 203
location of all impoundments for waste or erosion control; any 204
settling or water treatment facility; constructed or natural 205
drainways and the location of any discharges to any surface body 206
of water on the land to be affected or adjacent thereto; profiles 207
at appropriate cross sections of the anticipated final surface 208
configuration that will be achieved pursuant to the operator's 209
proposed reclamation plan; the location of subsurface water, if 210
encountered; the location and quality of aquifers; and the 211
estimated elevation of the water table. Registered surveyors shall 212
be allowed to perform all plans, maps, and certifications under 213
this chapter as they are authorized under Chapter 4733. of the 214
Revised Code. 215

(ii) A statement of the quality and locations of subsurface 216
water. The chief shall provide by rule the number of locations to 217
be sampled, frequency of collection, and parameters to be analyzed 218
to obtain the statement required. 219

(o) A statement of the results of test borings or core 220
samplings from the permit area, including logs of the drill holes, 221
the thickness of the coal seam found, an analysis of the chemical 222
properties of the coal, the sulfur content of any coal seam, 223
chemical analysis of potentially acid or toxic forming sections of 224
the overburden, and chemical analysis of the stratum lying 225
immediately underneath the coal to be mined, except that this 226
division may be waived by the chief with respect to the specific 227
application by a written determination that its requirements are 228
unnecessary. If the test borings or core samplings from the permit 229
area indicate the existence of potentially acid forming or toxic 230
forming quantities of sulfur in the coal or overburden to be 231
disturbed by mining, the application also shall include a 232
statement of the acid generating potential and the acid 233
neutralizing potential of the rock strata to be disturbed as 234

calculated in accordance with the calculation method established 235
under section 1513.075 of the Revised Code or with another 236
calculation method. 237

(p) For those lands in the permit application that a 238
reconnaissance inspection suggests may be prime farmlands, a soil 239
survey shall be made or obtained according to standards 240
established by the secretary of the United States department of 241
agriculture in order to confirm the exact location of the prime 242
farmlands, if any; 243

(q) A certificate issued by an insurance company authorized 244
to do business in this state certifying that the applicant has a 245
public liability insurance policy in force for the coal mining and 246
reclamation operations for which the permit is sought or evidence 247
that the applicant has satisfied other state self-insurance 248
requirements. The policy shall provide for personal injury and 249
property damage protection in an amount adequate to compensate any 250
persons damaged as a result of coal mining and reclamation 251
operations, including the use of explosives, and entitled to 252
compensation under the applicable provisions of state law. The 253
policy shall be maintained in effect during the term of the permit 254
or any renewal, including the length of all reclamation 255
operations. The insurance company shall give prompt notice to the 256
permittee and the chief if the public liability insurance policy 257
lapses for any reason including the nonpayment of insurance 258
premiums. Upon the lapse of the policy, the chief may suspend the 259
permit and all other outstanding permits until proper insurance 260
coverage is obtained. 261

(r) The business telephone number of the applicant; 262

(s) If the applicant seeks an authorization under division 263
(E)(7) of this section to conduct coal mining and reclamation 264
operations on areas to be covered by the permit that were affected 265
by coal mining operations before August 3, 1977, that have 266

resulted in continuing water pollution from or on the previously 267
mined areas, such additional information pertaining to those 268
previously mined areas as may be required by the chief, including, 269
without limitation, maps, plans, cross sections, data necessary to 270
determine existing water quality from or on those areas with 271
respect to pH, iron, and manganese, and a pollution abatement plan 272
that may improve water quality from or on those areas with respect 273
to pH, iron, and manganese. 274

(2) Information pertaining to coal seams, test borings, core 275
samplings, or soil samples as required by this section shall be 276
made available by the chief to any person with an interest that is 277
or may be adversely affected, except that information that 278
pertains only to the analysis of the chemical and physical 279
properties of the coal, excluding information regarding mineral or 280
elemental content that is potentially toxic in the environment, 281
shall be kept confidential and not made a matter of public record. 282

(3)(a) If the chief finds that the probable total annual 283
production at all locations of any operator will not exceed three 284
hundred thousand tons, the following activities, upon the written 285
request of the operator in connection with a permit application, 286
shall be performed by a qualified public or private laboratory or 287
another public or private qualified entity designated by the 288
chief, and the cost of the activities shall be assumed by the 289
chief, provided that sufficient moneys for such assistance are 290
available: 291

(i) The determination of probable hydrologic consequences 292
required under division (B)(1)(k) of this section; 293

(ii) The development of cross-section maps and plans required 294
under division (B)(1)(n)(i) of this section; 295

(iii) The geologic drilling and statement of results of test 296
borings and core samplings required under division (B)(1)(o) of 297

this section;	298
(iv) The collection of archaeological information required under division (B)(1)(m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby;	299 300 301 302
(v) Pre-blast surveys required under division (E) of section 1513.161 of the Revised Code;	303 304
(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter.	305 306 307 308
(b) A coal operator that has received assistance under division (B)(3)(a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit.	309 310 311 312 313 314 315
(4) Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this chapter.	316 317 318
(5) Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur.	319 320 321 322 323 324
(6) Each applicant for a coal mining and reclamation permit shall submit to the chief as part of the permit application a blasting plan that describes the procedures and standards by which the operator will comply with section 1513.161 of the Revised	325 326 327 328

Code.	329
(C) Each reclamation plan submitted as part of a permit application shall include, in the detail necessary to demonstrate that reclamation required by this chapter can be accomplished, a statement of:	330 331 332 333
(1) The identification of the lands subject to coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;	334 335 336 337
(2) The condition of the land to be covered by the permit prior to any mining including all of the following:	338 339
(a) The uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining;	340 341 342
(b) The capability of the land prior to any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to division (B)(1)(p) of this section;	343 344 345 346 347
(c) The productivity of the land prior to mining, including appropriate classification as prime farmlands as well as the average yield of food, fiber, forage, or wood products obtained from the land under high levels of management.	348 349 350 351
(3) The use that is proposed to be made of the land following reclamation, including information regarding the utility and capacity of the reclaimed land to support a variety of alternative uses, the relationship of the proposed use to existing land use policies and plans, and the comments of any owner of the land and state and local governments or agencies thereof that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;	352 353 354 355 356 357 358 359

(4) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities that may be needed to achieve the proposed land use;	360 361 362
(5) The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 1513.16 of the Revised Code, for those food, forage, and forest lands identified in that section; and an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in section 1513.16 of the Revised Code;	363 364 365 366 367 368 369 370 371 372 373 374
(6) A description of the means by which the utilization and conservation of the solid fuel resource being recovered will be maximized so that re-affecting the land in the future can be minimized;	375 376 377 378
(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;	379 380
(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;	381 382 383
(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;	384 385 386
(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;	387 388 389
(11) A description of all lands, interests in lands, or	390

options on such interests held by the applicant or pending bids on 391
interests in lands by the applicant, which lands are contiguous to 392
the area to be covered by the permit; 393

(12) The results of test borings that the applicant has made 394
at the area to be covered by the permit, or other equivalent 395
information and data in a form satisfactory to the chief, 396
including the location of subsurface water, and an analysis of the 397
chemical properties, including acid forming properties of the 398
mineral and overburden; except that information that pertains only 399
to the analysis of the chemical and physical properties of the 400
coal, excluding information regarding mineral or elemental 401
contents that are potentially toxic in the environment, shall be 402
kept confidential and not made a matter of public record; 403

(13) A detailed description of the measures to be taken 404
during the mining and reclamation process to ensure the protection 405
of all of the following: 406

(a) The quality of surface and ground water systems, both on- 407
and off-site, from adverse effects of the mining and reclamation 408
process; 409

(b) The rights of present users to such water; 410

(c) The quantity of surface and ground water systems, both 411
on- and off-site, from adverse effects of the mining and 412
reclamation process or, where such protection of quantity cannot 413
be assured, provision of alternative sources of water. 414

(14) Any other requirements the chief prescribes by rule. 415

(D)(1) Any information required by division (C) of this 416
section that is not on public file pursuant to this chapter shall 417
be held in confidence by the chief. 418

(2) With regard to requests for an exemption from the 419
requirements of this chapter for coal extraction incidental to the 420

extraction of other minerals, as described in division (H)(1)(a) 421
of section 1513.01 of the Revised Code, confidential information 422
includes and is limited to information concerning trade secrets or 423
privileged commercial or financial information relating to the 424
competitive rights of the persons intending to conduct the 425
extraction of minerals. 426

(E)(1) Upon the basis of a complete mining application and 427
reclamation plan or a revision or renewal thereof, as required by 428
this chapter, and information obtained as a result of public 429
notification and public hearing, if any, as provided by section 430
1513.071 of the Revised Code, the chief shall grant, require 431
modification of, or deny the application for a permit ~~in a~~ 432
~~reasonable time set by the chief~~ and notify the applicant in 433
writing in accordance with division (I)(3) of this section. The An 434
application is deemed to be complete as submitted to the chief 435
unless the chief, within fourteen days of the submission, 436
identifies deficiencies in the application in writing and 437
subsequently submits a copy of a written list of deficiencies to 438
the applicant. 439

A decision of the chief denying a permit shall state in 440
writing the specific reasons for the denial. 441

The applicant for a permit or revision of a permit has the 442
burden of establishing that the application is in compliance with 443
all the requirements of this chapter. Within ten days after the 444
granting of a permit, the chief shall notify the boards of 445
township trustees and county commissioners, the mayor, and the 446
legislative authority in the township, county, and municipal 447
corporation in which the area of land to be affected is located 448
that a permit has been issued and shall describe the location of 449
the land. However, failure of the chief to notify the local 450
officials shall not affect the status of the permit. 451

(2) No permit application or application for revision of an 452

existing permit shall be approved unless the application 453
affirmatively demonstrates and the chief finds in writing on the 454
basis of the information set forth in the application or from 455
information otherwise available, which shall be documented in the 456
approval and made available to the applicant, all of the 457
following: 458

(a) The application is accurate and complete and all the 459
requirements of this chapter have been complied with. 460

(b) The applicant has demonstrated that the reclamation 461
required by this chapter can be accomplished under the reclamation 462
plan contained in the application. 463

(c)(i) Assessment of the probable cumulative impact of all 464
anticipated mining in the general and adjacent area on the 465
hydrologic balance specified in division (B)(1)(k) of this section 466
has been made by the chief, and the proposed operation has been 467
designed to prevent material damage to hydrologic balance outside 468
the permit area. 469

(ii) There shall be an ongoing process conducted by the chief 470
in cooperation with other state and federal agencies to review all 471
assessments of probable cumulative impact of coal mining in light 472
of post-mining data and any other hydrologic information as it 473
becomes available to determine if the assessments were realistic. 474
The chief shall take appropriate action as indicated in the review 475
process. 476

(d) The area proposed to be mined is not included within an 477
area designated unsuitable for coal mining pursuant to section 478
1513.073 of the Revised Code or is not within an area under study 479
for such designation in an administrative proceeding commenced 480
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 481
Revised Code unless in an area as to which an administrative 482
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 483

section 1513.073 of the Revised Code, the operator making the 484
permit application demonstrates that, prior to January 1, 1977, 485
the operator made substantial legal and financial commitments in 486
relation to the operation for which a permit is sought. 487

(e) In cases where the private mineral estate has been 488
severed from the private surface estate, the applicant has 489
submitted to the chief one of the following: 490

(i) The written consent of the surface owner to the 491
extraction of coal by strip mining methods; 492

(ii) A conveyance that expressly grants or reserves the right 493
to extract the coal by strip mining methods; 494

(iii) If the conveyance does not expressly grant the right to 495
extract coal by strip mining methods, the surface-subsurface legal 496
relationship shall be determined under the law of this state. This 497
chapter does not authorize the chief to adjudicate property rights 498
disputes. 499

(3)(a) The applicant shall file with the permit application a 500
schedule listing all notices of violations of any law, rule, or 501
regulation of the United States or of any department or agency 502
thereof or of any state pertaining to air or water environmental 503
protection incurred by the applicant in connection with any coal 504
mining operation during the three-year period prior to the date of 505
application. The schedule also shall indicate the final resolution 506
of such a notice of violation. Upon receipt of an application, the 507
chief shall provide a schedule listing all notices of violations 508
of this chapter pertaining to air or water environmental 509
protection incurred by the applicant during the three-year period 510
prior to receipt of the application and the final resolution of 511
all such notices of violation. The chief shall provide this 512
schedule to the applicant for filing by the applicant with the 513
application filed for public review, as required by division 514

(B)(5) of this section. When the schedule or other information 515
available to the chief indicates that any coal mining operation 516
owned or controlled by the applicant is currently in violation of 517
such laws, the permit shall not be issued until the applicant 518
submits proof that the violation has been corrected or is in the 519
process of being corrected to the satisfaction of the regulatory 520
authority, department, or agency that has jurisdiction over the 521
violation and that any civil penalties owed to the state for a 522
violation and not the subject of an appeal have been paid. No 523
permit shall be issued to an applicant after a finding by the 524
chief that the applicant or the operator specified in the 525
application controls or has controlled mining operations with a 526
demonstrated pattern of willful violations of this chapter of a 527
nature and duration to result in irreparable damage to the 528
environment as to indicate an intent not to comply with or a 529
disregard of this chapter. 530

(b) For the purposes of division (E)(3)(a) of this section, 531
any violation resulting from an unanticipated event or condition 532
at a surface coal mining operation on lands eligible for remining 533
under a permit held by the person submitting an application for a 534
coal mining permit under this section shall not prevent issuance 535
of that permit. As used in this division, "unanticipated event or 536
condition" means an event or condition encountered in a remining 537
operation that was not contemplated by the applicable surface coal 538
mining and reclamation permit. 539

(4)(a) In addition to finding the application in compliance 540
with division (E)(2) of this section, if the area proposed to be 541
mined contains prime farmland as determined pursuant to division 542
(B)(1)(p) of this section, the chief, after consultation with the 543
secretary of the United States department of agriculture and 544
pursuant to regulations issued by the secretary of the interior 545
with the concurrence of the secretary of agriculture, may grant a 546

permit to mine on prime farmland if the chief finds in writing 547
that the operator has the technological capability to restore the 548
mined area, within a reasonable time, to equivalent or higher 549
levels of yield as nonmined prime farmland in the surrounding area 550
under equivalent levels of management and can meet the soil 551
reconstruction standards in section 1513.16 of the Revised Code. 552

(b) Division (E)(4)(a) of this section does not apply to a 553
permit issued prior to August 3, 1977, or revisions or renewals 554
thereof. 555

(5) The chief shall issue an order denying a permit after 556
finding that the applicant has misrepresented or omitted any 557
material fact in the application for the permit. 558

(6) The chief may issue an order denying a permit after 559
finding that the applicant, any partner, if the applicant is a 560
partnership, any officer, principal shareholder, or director, if 561
the applicant is a corporation, or any other person who has a 562
right to control or in fact controls the management of the 563
applicant or the selection of officers, directors, or managers of 564
the applicant has been a sole proprietor or partner, officer, 565
director, principal shareholder, or person having the right to 566
control or has in fact controlled the management of or the 567
selection of officers, directors, or managers of a business entity 568
that ever has had a coal mining license or permit issued by this 569
or any other state or the United States suspended or revoked, ever 570
has forfeited a coal or surface mining bond, performance security, 571
or similar security deposited in lieu of bond in this or any other 572
state or with the United States, or ever has substantially or 573
materially failed to comply with this chapter. 574

(7) When issuing a permit under this section, the chief may 575
authorize an applicant to conduct coal mining and reclamation 576
operations on areas to be covered by the permit that were affected 577
by coal mining operations before August 3, 1977, that have 578

resulted in continuing water pollution from or on the previously 579
mined areas for the purpose of potentially reducing the pollution 580
loadings of pH, iron, and manganese from discharges from or on the 581
previously mined areas. Following the chief's authorization to 582
conduct such operations on those areas, the areas shall be 583
designated as pollution abatement areas for the purposes of this 584
chapter. 585

The chief shall not grant an authorization under division 586
(E)(7) of this section to conduct coal mining and reclamation 587
operations on any such previously mined areas unless the applicant 588
demonstrates to the chief's satisfaction that all of the following 589
conditions are met: 590

(a) The applicant's pollution abatement plan for mining and 591
reclaiming the previously mined areas represents the best 592
available technology economically achievable. 593

(b) Implementation of the plan will potentially reduce 594
pollutant loadings of pH, iron, and manganese resulting from 595
discharges of surface waters or ground water from or on the 596
previously mined areas within the permit area. 597

(c) Implementation of the plan will not cause any additional 598
degradation of surface water quality off the permit area with 599
respect to pH, iron, and manganese. 600

(d) Implementation of the plan will not cause any additional 601
degradation of ground water. 602

(e) The plan meets the requirements governing mining and 603
reclamation of such previously mined pollution abatement areas 604
established by the chief in rules adopted under section 1513.02 of 605
the Revised Code. 606

(f) Neither the applicant; any partner, if the applicant is a 607
partnership; any officer, principal shareholder, or director, if 608
the applicant is a corporation; any other person who has a right 609

to control or in fact controls the management of the applicant or 610
the selection of officers, directors, or managers of the 611
applicant; nor any contractor or subcontractor of the applicant, 612
has any of the following: 613

(i) Responsibility or liability under this chapter or rules 614
adopted under it as an operator for treating the discharges of 615
water pollutants from or on the previously mined areas for which 616
the authorization is sought; 617

(ii) Any responsibility or liability under this chapter or 618
rules adopted under it for reclaiming the previously mined areas 619
for which the authorization is sought; 620

(iii) During the eighteen months prior to submitting the 621
permit application requesting an authorization under division 622
(E)(7) of this section, had a coal mining and reclamation permit 623
suspended or revoked under division (D)(3) of section 1513.02 of 624
the Revised Code for violating this chapter or Chapter 6111. of 625
the Revised Code or rules adopted under them with respect to water 626
quality, effluent limitations, or surface or ground water 627
monitoring; 628

(iv) Ever forfeited a coal or surface mining bond, 629
performance security, or similar security deposited in lieu of a 630
bond in this or any other state or with the United States. 631

(8) In the case of the issuance of a permit that involves a 632
conflict of results between various methods of calculating 633
potential acidity and neutralization potential for purposes of 634
assessing the potential for acid mine drainage to occur at a mine 635
site, the permit shall include provisions for monitoring and 636
record keeping to identify the creation of unanticipated acid 637
water at the mine site. If the monitoring detects the creation of 638
acid water at the site, the permit shall impose on the permittee 639
additional requirements regarding mining practices and site 640

reclamation to prevent the discharge of acid mine drainage from 641
the mine site. As used in division (E)(8) of this section, 642
"potential acidity" and "neutralization potential" have the same 643
meanings as in section 1513.075 of the Revised Code. 644

(F)(1) During the term of the permit, the permittee may 645
submit an application for a revision of the permit, together with 646
a revised reclamation plan, to the chief. 647

(2) An application for a revision of a permit shall not be 648
approved unless the chief finds that reclamation required by this 649
chapter can be accomplished under the revised reclamation plan. 650
The revision shall be approved or disapproved within ninety days 651
after receipt of a complete revision application. The chief shall 652
establish, by rule, criteria for determining the extent to which 653
all permit application information requirements and procedures, 654
including notice and hearings, shall apply to the revision 655
request, except that any revisions that propose significant 656
alterations in the reclamation plan, at a minimum, shall be 657
subject to notice and hearing requirements. 658

(3) Any extensions to the area covered by the permit except 659
incidental boundary revisions shall be made by application for a 660
permit. 661

(G) No transfer, assignment, or sale of the rights granted 662
under a permit issued pursuant to this chapter shall be made 663
without the written approval of the chief. 664

(H) The chief, within a time limit prescribed in the chief's 665
rules, shall review outstanding permits and may require reasonable 666
revision or modification of a permit. A revision or modification 667
shall be based upon a written finding and subject to notice and 668
hearing requirements established by rule of the chief. 669

(I)(1) If an informal conference has been held pursuant to 670
section 1513.071 of the Revised Code, the chief shall issue and 671

furnish the applicant for a permit, persons who participated in 672
the informal conference, and persons who filed written objections 673
pursuant to division (B) of section 1513.071 of the Revised Code, 674
with the written finding of the chief granting or denying the 675
permit in whole or in part and stating the reasons therefor within 676
sixty days of the conference, provided that the chief shall comply 677
with the time frames established in division (I)(3) of this 678
section. 679

(2) If there has been no informal conference held pursuant to 680
section 1513.071 of the Revised Code, the chief shall ~~notify~~ 681
submit to the applicant for a permit within a reasonable time as 682
~~provided by rule of the chief, taking into account the time needed~~ 683
~~for proper investigation of the site, the complexity of the permit~~ 684
~~application, whether or not a written objection to the application~~ 685
~~has been filed, and whether the application has been approved or~~ 686
~~disapproved in whole or in part~~ the written finding of the chief 687
granting or denying the permit in whole or in part and stating the 688
reasons therefor within the time frames established in division 689
(I)(3) of this section. 690

(3) The chief shall grant or deny a permit not later than two 691
hundred forty days after the submission of a complete application 692
for the permit. Any time during which the applicant is making 693
revisions to an application or providing additional information 694
requested by the chief regarding an application shall not be 695
included in the two hundred forty days. If the chief determines 696
that a permit cannot be granted or denied within the 697
two-hundred-forty-day time frame, the chief, not later than two 698
hundred ten days after the submission of a complete application 699
for the permit, shall provide the applicant with written notice of 700
the expected delay. 701

(4) If the application is approved, the permit shall be 702
issued. If the application is disapproved, specific reasons 703

therefor shall be set forth in the notification. Within thirty 704
days after the applicant is notified of the final decision of the 705
chief on the permit application, the applicant or any person with 706
an interest that is or may be adversely affected may appeal the 707
decision to the reclamation commission pursuant to section 1513.13 708
of the Revised Code. 709

~~(4)~~(5) Any applicant or any person with an interest that is 710
or may be adversely affected who has participated in the 711
administrative proceedings as an objector and is aggrieved by the 712
decision of the reclamation commission, or if the commission fails 713
to act within the time limits specified in this chapter, may 714
appeal in accordance with section 1513.14 of the Revised Code. 715

Sec. 1513.076. The director of environmental protection and 716
the director of natural resources shall jointly establish 717
procedures that do all of the following: 718

(A) Provide for the coordination of the issuance of coal 719
mining and reclamation permits under this chapter and permits and 720
certifications under Chapter 6111. of the Revised Code for coal 721
mining and reclamation operations; 722

(B) Provide for the direct cooperation of the staff of the 723
environmental protection agency and the staff of the division of 724
mineral resources management in the review and approval or denial 725
of coal mining and reclamation permits issued under this chapter 726
and permits and certifications issued under Chapter 6111. of the 727
Revised Code; 728

(C) Provide for direct and effective communication between 729
the staff of the environmental protection agency and the staff of 730
the division of mineral resources management regarding the review 731
and approval or denial of coal mining and reclamation permits 732
issued under this chapter and permits and certifications issued 733
under Chapter 6111. of the Revised Code; 734

(D) Provide for the creation of a joint agency coal task 735
force consisting of employees of the environmental protection 736
agency and the division of mineral resources management for the 737
purpose of ensuring that the procedures established under 738
divisions (A) to (C) of this section are properly implemented. 739

Section 2. That existing section 1513.07 of the Revised Code 740
is hereby repealed. 741

Section 3. The Director of Environmental Protection and the 742
Director of Natural Resources shall jointly determine if the State 743
of Ohio may administer the section 404 program under the Federal 744
Water Pollution Control Act in lieu of the United States Army 745
Corps of Engineers. The Director of Environmental Protection and 746
the Director of Natural Resources shall contact and work with the 747
United States Army Corps of Engineers in order to make that 748
determination. The Director of Environmental Protection and the 749
Director of Natural Resources shall report their findings to the 750
General Assembly not later than one year after the effective date 751
of this section. 752