

As Introduced

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Representative Balderson

**Cosponsors: Representatives Carey, Derickson, Boose, Adams, J.,
Blessing, Combs, Hackett, Stebelton**

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A B I L L

To amend sections 1513.07 and 1513.073 of the Revised 1
Code to revise the coal mining laws regarding 2
permit application and set-back requirements. 3

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

Section 1. That sections 1513.07 and 1513.073 of the Revised 4
Code be amended to read as follows: 5

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining 6
operation without a permit for the operation issued by the chief 7
of the division of mineral resources management. 8

(2) All permits issued pursuant to this chapter shall be 9
issued for a term not to exceed five years, except that, if the 10
applicant demonstrates that a specified longer term is reasonably 11
needed to allow the applicant to obtain necessary financing for 12
equipment and the opening of the operation and if the application 13
is full and complete for the specified longer term, the chief may 14
grant a permit for the longer term. A successor in interest to a 15
permittee who applies for a new permit within thirty days after 16
succeeding to the interest and who is able to obtain the 17
performance security of the original permittee may continue coal 18

mining and reclamation operations according to the approved mining 19
and reclamation plan of the original permittee until the 20
successor's application is granted or denied. 21

(3) A permit shall terminate if the permittee has not 22
commenced the coal mining operations covered by the permit within 23
three years after the issuance of the permit, except that the 24
chief may grant reasonable extensions of the time upon a showing 25
that the extensions are necessary by reason of litigation 26
precluding the commencement or threatening substantial economic 27
loss to the permittee or by reason of conditions beyond the 28
control and without the fault or negligence of the permittee, and 29
except that with respect to coal to be mined for use in a 30
synthetic fuel facility or specified major electric generating 31
facility, the permittee shall be deemed to have commenced coal 32
mining operations at the time construction of the synthetic fuel 33
or generating facility is initiated. 34

(4)(a) Any permit issued pursuant to this chapter shall carry 35
with it the right of successive renewal upon expiration with 36
respect to areas within the boundaries of the permit. The holders 37
of the permit may apply for renewal and the renewal shall be 38
issued unless the chief determines by written findings, subsequent 39
to fulfillment of the public notice requirements of this section 40
and section 1513.071 of the Revised Code through demonstrations by 41
opponents of renewal or otherwise, that one or more of the 42
following circumstances exists: 43

(i) The terms and conditions of the existing permit are not 44
being satisfactorily met. 45

(ii) The present coal mining and reclamation operation is not 46
in compliance with the environmental protection standards of this 47
chapter. 48

(iii) The renewal requested substantially jeopardizes the 49

operator's continuing responsibilities on existing permit areas. 50

(iv) The applicant has not provided evidence that the 51
performance security in effect for the operation will continue in 52
effect for any renewal requested in the application. 53

(v) Any additional, revised, or updated information required 54
by the chief has not been provided. Prior to the approval of any 55
renewal of a permit, the chief shall provide notice to the 56
appropriate public authorities as prescribed by rule of the chief. 57

(b) If an application for renewal of a valid permit includes 58
a proposal to extend the mining operation beyond the boundaries 59
authorized in the existing permit, the portion of the application 60
for renewal of a valid permit that addresses any new land areas 61
shall be subject to the full standards applicable to new 62
applications under this chapter. 63

(c) A permit renewal shall be for a term not to exceed the 64
period of the original permit established by this chapter. 65
Application for permit renewal shall be made at least one hundred 66
twenty days prior to the expiration of the valid permit. 67

(5) A permit issued pursuant to this chapter does not 68
eliminate the requirements for obtaining a permit to install or 69
modify a disposal system or any part thereof or to discharge 70
sewage, industrial waste, or other wastes into the waters of the 71
state in accordance with Chapter 6111. of the Revised Code. 72

(B)(1) The permit application shall be submitted in a manner 73
satisfactory to the chief and shall contain, among other things, 74
all of the following: 75

(a) The names and addresses of all of the following: 76

(i) The permit applicant; 77

(ii) Every legal owner of record of the property, surface and 78
mineral, to be mined; 79

(iii) The holders of record of any leasehold interest in the property;	80 81
(iv) Any purchaser of record of the property under a real estate contract;	82 83
(v) The operator if different from the applicant;	84
(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.	85 86 87
(b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;	88 89 90
(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;	91 92 93
(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 permit;	94 95 96 97 98 99 100 101 102 103 104 105 106 107
(e) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, any partner if the applicant is a partnership, any	108 109 110

officer, principal shareholder, or director if the applicant is a 111
corporation, or any other person who has a right to control or in 112
fact controls the management of the applicant or the selection of 113
officers, directors, or managers of the applicant: 114

(i) Has ever held a federal or state coal mining permit that 115
in the five-year period prior to the date of submission of the 116
application has been suspended or revoked or has had a coal mining 117
bond, performance security, or similar security deposited in lieu 118
of bond forfeited and, if so, a brief explanation of the facts 119
involved; 120

(ii) Has been an officer, partner, director, principal 121
shareholder, or person having the right to control or has in fact 122
controlled the management of or the selection of officers, 123
directors, or managers of a business entity that has had a coal 124
mining or surface mining permit that in the five-year period prior 125
to the date of submission of the application has been suspended or 126
revoked or has had a coal mining or surface mining bond, 127
performance security, or similar security deposited in lieu of 128
bond forfeited and, if so, a brief explanation of the facts 129
involved. 130

(f) A copy of the applicant's advertisement to be published 131
in a newspaper of general circulation in the locality of the 132
proposed site at least once a week for four successive weeks, 133
which shall include the ownership of the proposed mine, a 134
description of the exact location and boundaries of the proposed 135
site sufficient to make the proposed operation readily 136
identifiable by local residents, and the location where the 137
application is available for public inspection; 138

(g) A description of the type and method of coal mining 139
operation that exists or is proposed, the engineering techniques 140
proposed or used, and the equipment used or proposed to be used; 141

(h) The anticipated or actual starting and termination dates 142
of each phase of the mining operation and number of acres of land 143
to be affected; 144

(i) An accurate map or plan, to an appropriate scale, clearly 145
showing the land to be affected and the land upon which the 146
applicant has the legal right to enter and commence coal mining 147
operations, copies of those documents upon which is based the 148
applicant's legal right to enter and commence coal mining 149
operations, and a statement whether that right is the subject of 150
pending litigation. This chapter does not authorize the chief to 151
adjudicate property title disputes. 152

(j) The name of the watershed and location of the surface 153
stream or tributary into which drainage from the operation will be 154
discharged; 155

(k) A determination of the probable hydrologic consequences 156
of the mining and reclamation operations, both on and off the mine 157
site, with respect to the hydrologic regime, providing information 158
on the quantity and quality of water in surface and ground water 159
systems including the dissolved and suspended solids under 160
seasonal flow conditions and the collection of sufficient data for 161
the mine site and surrounding areas so that an assessment can be 162
made by the chief of the probable cumulative impacts of all 163
anticipated mining in the area upon the hydrology of the area and 164
particularly upon water availability, but this determination shall 165
not be required until hydrologic information of the general area 166
prior to mining is made available from an appropriate federal or 167
state agency; however, the permit shall not be approved until the 168
information is available and is incorporated into the application; 169

(l) When requested by the chief, the climatological factors 170
that are peculiar to the locality of the land to be affected, 171
including the average seasonal precipitation, the average 172
direction and velocity of prevailing winds, and the seasonal 173

temperature ranges; 174

(m) Accurate maps prepared by or under the direction of and 175
certified by a qualified registered professional engineer, 176
registered surveyor, or licensed landscape architect to an 177
appropriate scale clearly showing all types of information set 178
forth on topographical maps of the United States geological survey 179
of a scale of not more than four hundred feet to the inch, 180
including all artificial features and significant known 181
archeological sites. The map, among other things specified by the 182
chief, shall show all boundaries of the land to be affected, the 183
boundary lines and names of present owners of record of all 184
surface areas abutting the permit area, and the location of all 185
buildings within one thousand feet of the permit area. 186

(n)(i) Cross-section maps or plans of the land to be affected 187
including the actual area to be mined, prepared by or under the 188
direction of and certified by a qualified registered professional 189
engineer or certified professional geologist with assistance from 190
experts in related fields such as hydrology, hydrogeology, 191
geology, and landscape architecture, showing pertinent elevations 192
and locations of test borings or core samplings and depicting the 193
following information: the nature and depth of the various strata 194
of overburden; the nature and thickness of any coal or rider seam 195
above the coal seam to be mined; the nature of the stratum 196
immediately beneath the coal seam to be mined; all mineral crop 197
lines and the strike and dip of the coal to be mined within the 198
area to be affected; existing or previous coal mining limits; the 199
location and extent of known workings of any underground mines, 200
including mine openings to the surface; the location of spoil, 201
waste, or refuse areas and topsoil preservation areas; the 202
location of all impoundments for waste or erosion control; any 203
settling or water treatment facility; constructed or natural 204
drainways and the location of any discharges to any surface body 205

of water on the land to be affected or adjacent thereto; profiles 206
at appropriate cross sections of the anticipated final surface 207
configuration that will be achieved pursuant to the operator's 208
proposed reclamation plan; the location of subsurface water, if 209
encountered; the location and quality of aquifers; and the 210
estimated elevation of the water table. Registered surveyors shall 211
be allowed to perform all plans, maps, and certifications under 212
this chapter as they are authorized under Chapter 4733. of the 213
Revised Code. 214

(ii) A statement of the quality and locations of subsurface 215
water. The chief shall provide by rule the number of locations to 216
be sampled, frequency of collection, and parameters to be analyzed 217
to obtain the statement required. 218

(o) A statement of the results of test borings or core 219
samplings from the permit area, including logs of the drill holes, 220
the thickness of the coal seam found, an analysis of the chemical 221
properties of the coal, the sulfur content of any coal seam, 222
chemical analysis of potentially acid or toxic forming sections of 223
the overburden, and chemical analysis of the stratum lying 224
immediately underneath the coal to be mined, except that this 225
division may be waived by the chief with respect to the specific 226
application by a written determination that its requirements are 227
unnecessary. If the test borings or core samplings from the permit 228
area indicate the existence of potentially acid forming or toxic 229
forming quantities of sulfur in the coal or overburden to be 230
disturbed by mining, the application also shall include a 231
statement of the acid generating potential and the acid 232
neutralizing potential of the rock strata to be disturbed as 233
calculated in accordance with the calculation method established 234
under section 1513.075 of the Revised Code or with another 235
calculation method. 236

(p) For those lands in the permit application that a 237

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

(q) A certificate issued by an insurance company authorized 243
to do business in this state certifying that the applicant has a 244
public liability insurance policy in force for the coal mining and 245
reclamation operations for which the permit is sought or evidence 246
that the applicant has satisfied other state self-insurance 247
requirements. The policy shall provide for personal injury and 248
property damage protection in an amount adequate to compensate any 249
persons damaged as a result of coal mining and reclamation 250
operations, including the use of explosives, and entitled to 251
compensation under the applicable provisions of state law. The 252
policy shall be maintained in effect during the term of the permit 253
or any renewal, including the length of all reclamation 254
operations. The insurance company shall give prompt notice to the 255
permittee and the chief if the public liability insurance policy 256
lapses for any reason including the nonpayment of insurance 257
premiums. Upon the lapse of the policy, the chief may suspend the 258
permit and all other outstanding permits until proper insurance 259
coverage is obtained. 260

(r) The business telephone number of the applicant; 261

(s) If the applicant seeks an authorization under division 262
(E)(7) of this section to conduct coal mining and reclamation 263
operations on areas to be covered by the permit that were affected 264
by coal mining operations before August 3, 1977, that have 265
resulted in continuing water pollution from or on the previously 266
mined areas, such additional information pertaining to those 267
previously mined areas as may be required by the chief, including, 268
without limitation, maps, plans, cross sections, data necessary to 269

determine existing water quality from or on those areas with 270
respect to pH, iron, and manganese, and a pollution abatement plan 271
that may improve water quality from or on those areas with respect 272
to pH, iron, and manganese. 273

(2) Information pertaining to coal seams, test borings, core 274
samplings, or soil samples as required by this section shall be 275
made available by the chief to any person with an interest that is 276
or may be adversely affected, except that information that 277
pertains only to the analysis of the chemical and physical 278
properties of the coal, excluding information regarding mineral or 279
elemental content that is potentially toxic in the environment, 280
shall be kept confidential and not made a matter of public record. 281

(3)(a) If the chief finds that the probable total annual 282
production at all locations of any operator will not exceed three 283
hundred thousand tons, the following activities, upon the written 284
request of the operator in connection with a permit application, 285
shall be performed by a qualified public or private laboratory or 286
another public or private qualified entity designated by the 287
chief, and the cost of the activities shall be assumed by the 288
chief, provided that sufficient moneys for such assistance are 289
available: 290

(i) The determination of probable hydrologic consequences 291
required under division (B)(1)(k) of this section; 292

(ii) The development of cross-section maps and plans required 293
under division (B)(1)(n)(i) of this section; 294

(iii) The geologic drilling and statement of results of test 295
borings and core samplings required under division (B)(1)(o) of 296
this section; 297

(iv) The collection of archaeological information required 298
under division (B)(1)(m) of this section and any other 299
archaeological and historical information required by the chief, 300

and the preparation of plans necessitated thereby; 301

(v) Pre-blast surveys required under division (E) of section 302
1513.161 of the Revised Code; 303

(vi) The collection of site-specific resource information and 304
production of protection and enhancement plans for fish and 305
wildlife habitats and other environmental values required by the 306
chief under this chapter. 307

(b) A coal operator that has received assistance under 308
division (B)(3)(a) of this section shall reimburse the chief for 309
the cost of the services rendered if the chief finds that the 310
operator's actual and attributed annual production of coal for all 311
locations exceeds three hundred thousand tons during the twelve 312
months immediately following the date on which the operator was 313
issued a coal mining and reclamation permit. 314

(4) Each applicant for a permit shall submit to the chief as 315
part of the permit application a reclamation plan that meets the 316
requirements of this chapter. 317

(5) Each applicant for a coal mining and reclamation permit 318
shall file a copy of the application for a permit, excluding that 319
information pertaining to the coal seam itself, for public 320
inspection with the county recorder or an appropriate public 321
office approved by the chief in the county where the mining is 322
proposed to occur. 323

(6) Each applicant for a coal mining and reclamation permit 324
shall submit to the chief as part of the permit application a 325
blasting plan that describes the procedures and standards by which 326
the operator will comply with section 1513.161 of the Revised 327
Code. 328

(C) Each reclamation plan submitted as part of a permit 329
application shall include, in the detail necessary to demonstrate 330
that reclamation required by this chapter can be accomplished and 331

in the detail necessary for the chief to determine the estimated 332
cost of reclamation if the reclamation has to be performed by the 333
division of mineral resources management in the event of 334
forfeiture of the performance security by the applicant, a 335
statement of: 336

(1) The identification of the lands subject to coal mining 337
operations over the estimated life of those operations and the 338
size, sequence, and timing of the subareas for which it is 339
anticipated that individual permits for mining will be sought; 340

(2) The condition of the land to be covered by the permit 341
prior to any mining, including all of the following: 342

(a) The uses existing at the time of the application and, if 343
the land has a history of previous mining, the uses that preceded 344
any mining; 345

(b) The capability of the land prior to any mining to support 346
a variety of uses, giving consideration to soil and foundation 347
characteristics, topography, and vegetative cover and, if 348
applicable, a soil survey prepared pursuant to division (B)(1)(p) 349
of this section; 350

(c) The productivity of the land prior to mining, including 351
appropriate classification as prime farmlands as well as the 352
average yield of food, fiber, forage, or wood products obtained 353
from the land under high levels of management. 354

(3) The use that is proposed to be made of the land following 355
reclamation, including information regarding the utility and 356
capacity of the reclaimed land to support a variety of alternative 357
uses, the relationship of the proposed use to existing land use 358
policies and plans, and the comments of any owner of the land and 359
state and local governments or agencies thereof that would have to 360
initiate, implement, approve, or authorize the proposed use of the 361
land following reclamation; 362

(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;	363 364 365
(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 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;	366 367 368 369 370 371 372 373 374 375 376
(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;	377 378 379 380
(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;	381 382
(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;	383 384 385
(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;	386 387 388
(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;	389 390 391
(11) A description of all lands, interests in lands, or options on such interests held by the applicant or pending bids on	392 393

interests in lands by the applicant, which lands are contiguous to 394
the area to be covered by the permit; 395

(12) The results of test borings that the applicant has made 396
at the area to be covered by the permit, or other equivalent 397
information and data in a form satisfactory to the chief, 398
including the location of subsurface water, and an analysis of the 399
chemical properties, including acid forming properties of the 400
mineral and overburden; except that information that pertains only 401
to the analysis of the chemical and physical properties of the 402
coal, excluding information regarding mineral or elemental 403
contents that are potentially toxic in the environment, shall be 404
kept confidential and not made a matter of public record; 405

(13) A detailed description of the measures to be taken 406
during the mining and reclamation process to ensure the protection 407
of all of the following: 408

(a) The quality of surface and ground water systems, both on- 409
and off-site, from adverse effects of the mining and reclamation 410
process; 411

(b) The rights of present users to such water; 412

(c) The quantity of surface and ground water systems, both 413
on- and off-site, from adverse effects of the mining and 414
reclamation process or, where such protection of quantity cannot 415
be assured, provision of alternative sources of water. 416

(14) Any other requirements the chief prescribes by rule. 417

(D)(1) Any information required by division (C) of this 418
section that is not on public file pursuant to this chapter shall 419
be held in confidence by the chief. 420

(2) With regard to requests for an exemption from the 421
requirements of this chapter for coal extraction incidental to the 422
extraction of other minerals, as described in division (H)(1)(a) 423

of section 1513.01 of the Revised Code, confidential information 424
includes and is limited to information concerning trade secrets or 425
privileged commercial or financial information relating to the 426
competitive rights of the persons intending to conduct the 427
extraction of minerals. 428

(E)(1) Upon the basis of a complete mining application and 429
reclamation plan or a revision or renewal thereof, as required by 430
this chapter, and information obtained as a result of public 431
notification and public hearing, if any, as provided by section 432
1513.071 of the Revised Code, the chief shall grant, require 433
modification of, or deny the application for a permit and notify 434
the applicant in writing in accordance with division (I)(3) of 435
this section. An application is deemed to be complete as submitted 436
to the chief unless the chief, within fourteen days of the 437
submission, identifies deficiencies in the application in writing 438
and subsequently submits a copy of a written list of deficiencies 439
to the applicant. 440

A decision of the chief denying a permit shall state in 441
writing the specific reasons for the denial. 442

The applicant for a permit or revision of a permit has the 443
burden of establishing that the application is in compliance with 444
all the requirements of this chapter. Within ten days after the 445
granting of a permit, the chief shall notify the boards of 446
township trustees and county commissioners, the mayor, and the 447
legislative authority in the township, county, and municipal 448
corporation in which the area of land to be affected is located 449
that a permit has been issued and shall describe the location of 450
the land. However, failure of the chief to notify the local 451
officials shall not affect the status of the permit. 452

(2) No permit application or application for revision of an 453
existing permit shall be approved unless the application 454
affirmatively demonstrates and the chief finds in writing on the 455

basis of the information set forth in the application or from 456
information otherwise available, which shall be documented in the 457
approval and made available to the applicant, all of the 458
following: 459

(a) The application is accurate and complete and all the 460
requirements of this chapter have been complied with. 461

(b) The applicant has demonstrated that the reclamation 462
required by this chapter can be accomplished under the reclamation 463
plan contained in the application. 464

(c)(i) Assessment of the probable cumulative impact of all 465
anticipated mining in the general and adjacent area on the 466
hydrologic balance specified in division (B)(1)(k) of this section 467
has been made by the chief, and the proposed operation has been 468
designed to prevent material damage to hydrologic balance outside 469
the permit area. 470

(ii) There shall be an ongoing process conducted by the chief 471
in cooperation with other state and federal agencies to review all 472
assessments of probable cumulative impact of coal mining in light 473
of post-mining data and any other hydrologic information as it 474
becomes available to determine if the assessments were realistic. 475
The chief shall take appropriate action as indicated in the review 476
process. 477

(d) The area proposed to be mined is not included within an 478
area designated unsuitable for coal mining pursuant to section 479
1513.073 of the Revised Code or is not within an area under study 480
for such designation in an administrative proceeding commenced 481
pursuant to division (A)(3)(c) or (B) of section 1513.073 of the 482
Revised Code unless in an area as to which an administrative 483
proceeding has commenced pursuant to division (A)(3)(c) or (B) of 484
section 1513.073 of the Revised Code, the operator making the 485
permit application demonstrates that, prior to January 1, 1977, 486

the operator made substantial legal and financial commitments in 487
relation to the operation for which a permit is sought. 488

(e) In cases where the private mineral estate has been 489
severed from the private surface estate and surface disturbance 490
will result from the applicant's proposed use of a strip mining 491
method, the applicant has submitted to the chief one of the 492
following: 493

(i) The written consent of the surface owner to the surface 494
disturbance that will result from the extraction of coal by the 495
applicant's proposed strip mining ~~methods~~ method; 496

(ii) A conveyance that expressly grants or reserves the right 497
to extract the coal by strip mining methods that cause surface 498
disturbance; 499

(iii) If the conveyance does not expressly grant the right to 500
extract coal by strip mining methods that cause surface 501
disturbance, the surface-subsurface legal relationship concerning 502
surface disturbance shall be determined under the law of this 503
state. This chapter does not authorize the chief to adjudicate 504
property rights disputes. 505

(3)(a) The applicant shall file with the permit application a 506
schedule listing all notices of violations of any law, rule, or 507
regulation of the United States or of any department or agency 508
thereof or of any state pertaining to air or water environmental 509
protection incurred by the applicant in connection with any coal 510
mining operation during the three-year period prior to the date of 511
application. The schedule also shall indicate the final resolution 512
of such a notice of violation. Upon receipt of an application, the 513
chief shall provide a schedule listing all notices of violations 514
of this chapter pertaining to air or water environmental 515
protection incurred by the applicant during the three-year period 516
prior to receipt of the application and the final resolution of 517

all such notices of violation. The chief shall provide this 518
schedule to the applicant for filing by the applicant with the 519
application filed for public review, as required by division 520
(B)(5) of this section. When the schedule or other information 521
available to the chief indicates that any coal mining operation 522
owned or controlled by the applicant is currently in violation of 523
such laws, the permit shall not be issued until the applicant 524
submits proof that the violation has been corrected or is in the 525
process of being corrected to the satisfaction of the regulatory 526
authority, department, or agency that has jurisdiction over the 527
violation and that any civil penalties owed to the state for a 528
violation and not the subject of an appeal have been paid. No 529
permit shall be issued to an applicant after a finding by the 530
chief that the applicant or the operator specified in the 531
application controls or has controlled mining operations with a 532
demonstrated pattern of willful violations of this chapter of a 533
nature and duration to result in irreparable damage to the 534
environment as to indicate an intent not to comply with or a 535
disregard of this chapter. 536

(b) For the purposes of division (E)(3)(a) of this section, 537
any violation resulting from an unanticipated event or condition 538
at a surface coal mining operation on lands eligible for remining 539
under a permit held by the person submitting an application for a 540
coal mining permit under this section shall not prevent issuance 541
of that permit. As used in this division, "unanticipated event or 542
condition" means an event or condition encountered in a remining 543
operation that was not contemplated by the applicable surface coal 544
mining and reclamation permit. 545

(4)(a) In addition to finding the application in compliance 546
with division (E)(2) of this section, if the area proposed to be 547
mined contains prime farmland as determined pursuant to division 548
(B)(1)(p) of this section, the chief, after consultation with the 549

secretary of the United States department of agriculture and 550
pursuant to regulations issued by the secretary of the interior 551
with the concurrence of the secretary of agriculture, may grant a 552
permit to mine on prime farmland if the chief finds in writing 553
that the operator has the technological capability to restore the 554
mined area, within a reasonable time, to equivalent or higher 555
levels of yield as nonmined prime farmland in the surrounding area 556
under equivalent levels of management and can meet the soil 557
reconstruction standards in section 1513.16 of the Revised Code. 558

(b) Division (E)(4)(a) of this section does not apply to a 559
permit issued prior to August 3, 1977, or revisions or renewals 560
thereof. 561

(5) The chief shall issue an order denying a permit after 562
finding that the applicant has misrepresented or omitted any 563
material fact in the application for the permit. 564

(6) The chief may issue an order denying a permit after 565
finding that the applicant, any partner, if the applicant is a 566
partnership, any officer, principal shareholder, or director, if 567
the applicant is a corporation, or any other person who has a 568
right to control or in fact controls the management of the 569
applicant or the selection of officers, directors, or managers of 570
the applicant has been a sole proprietor or partner, officer, 571
director, principal shareholder, or person having the right to 572
control or has in fact controlled the management of or the 573
selection of officers, directors, or managers of a business entity 574
that ever has had a coal mining license or permit issued by this 575
or any other state or the United States suspended or revoked, ever 576
has forfeited a coal or surface mining bond, performance security, 577
or similar security deposited in lieu of bond in this or any other 578
state or with the United States, or ever has substantially or 579
materially failed to comply with this chapter. 580

(7) When issuing a permit under this section, the chief may 581

authorize an applicant to conduct coal mining and reclamation 582
operations on areas to be covered by the permit that were affected 583
by coal mining operations before August 3, 1977, that have 584
resulted in continuing water pollution from or on the previously 585
mined areas for the purpose of potentially reducing the pollution 586
loadings of pH, iron, and manganese from discharges from or on the 587
previously mined areas. Following the chief's authorization to 588
conduct such operations on those areas, the areas shall be 589
designated as pollution abatement areas for the purposes of this 590
chapter. 591

The chief shall not grant an authorization under division 592
(E)(7) of this section to conduct coal mining and reclamation 593
operations on any such previously mined areas unless the applicant 594
demonstrates to the chief's satisfaction that all of the following 595
conditions are met: 596

(a) The applicant's pollution abatement plan for mining and 597
reclaiming the previously mined areas represents the best 598
available technology economically achievable. 599

(b) Implementation of the plan will potentially reduce 600
pollutant loadings of pH, iron, and manganese resulting from 601
discharges of surface waters or ground water from or on the 602
previously mined areas within the permit area. 603

(c) Implementation of the plan will not cause any additional 604
degradation of surface water quality off the permit area with 605
respect to pH, iron, and manganese. 606

(d) Implementation of the plan will not cause any additional 607
degradation of ground water. 608

(e) The plan meets the requirements governing mining and 609
reclamation of such previously mined pollution abatement areas 610
established by the chief in rules adopted under section 1513.02 of 611
the Revised Code. 612

(f) Neither the applicant; any partner, if the applicant is a partnership; any officer, principal shareholder, or director, if the applicant is a corporation; any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant; nor any contractor or subcontractor of the applicant, has any of the following:

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

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

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

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

(8) In the case of the issuance of a permit that involves a conflict of results between various methods of calculating potential acidity and neutralization potential for purposes of assessing the potential for acid mine drainage to occur at a mine site, the permit shall include provisions for monitoring and record keeping to identify the creation of unanticipated acid

water at the mine site. If the monitoring detects the creation of 644
acid water at the site, the permit shall impose on the permittee 645
additional requirements regarding mining practices and site 646
reclamation to prevent the discharge of acid mine drainage from 647
the mine site. As used in division (E)(8) of this section, 648
"potential acidity" and "neutralization potential" have the same 649
meanings as in section 1513.075 of the Revised Code. 650

(F)(1) During the term of the permit, the permittee may 651
submit an application for a revision of the permit, together with 652
a revised reclamation plan, to the chief. 653

(2) An application for a revision of a permit shall not be 654
approved unless the chief finds that reclamation required by this 655
chapter can be accomplished under the revised reclamation plan. 656
The revision shall be approved or disapproved within ninety days 657
after receipt of a complete revision application. The chief shall 658
establish, by rule, criteria for determining the extent to which 659
all permit application information requirements and procedures, 660
including notice and hearings, shall apply to the revision 661
request, except that any revisions that propose significant 662
alterations in the reclamation plan, at a minimum, shall be 663
subject to notice and hearing requirements. 664

(3) Any extensions to the area covered by the permit except 665
incidental boundary revisions shall be made by application for a 666
permit. 667

(G) No transfer, assignment, or sale of the rights granted 668
under a permit issued pursuant to this chapter shall be made 669
without the written approval of the chief. 670

(H) The chief, within a time limit prescribed in the chief's 671
rules, shall review outstanding permits and may require reasonable 672
revision or modification of a permit. A revision or modification 673
shall be based upon a written finding and subject to notice and 674

hearing requirements established by rule of the chief. 675

(I)(1) If an informal conference has been held pursuant to 676
section 1513.071 of the Revised Code, the chief shall issue and 677
furnish the applicant for a permit, persons who participated in 678
the informal conference, and persons who filed written objections 679
pursuant to division (B) of section 1513.071 of the Revised Code, 680
with the written finding of the chief granting or denying the 681
permit in whole or in part and stating the reasons therefor within 682
sixty days of the conference, provided that the chief shall comply 683
with the time frames established in division (I)(3) of this 684
section. 685

(2) If there has been no informal conference held pursuant to 686
section 1513.071 of the Revised Code, the chief shall submit to 687
the applicant for a permit the written finding of the chief 688
granting or denying the permit in whole or in part and stating the 689
reasons therefor within the time frames established in division 690
(I)(3) of this section. 691

(3) The chief shall grant or deny a permit not later than two 692
hundred forty days after the submission of a complete application 693
for the permit. Any time during which the applicant is making 694
revisions to an application or providing additional information 695
requested by the chief regarding an application shall not be 696
included in the two hundred forty days. If the chief determines 697
that a permit cannot be granted or denied within the 698
two-hundred-forty-day time frame, the chief, not later than two 699
hundred ten days after the submission of a complete application 700
for the permit, shall provide the applicant with written notice of 701
the expected delay. 702

(4) If the application is approved, the permit shall be 703
issued. If the application is disapproved, specific reasons 704
therefor shall be set forth in the notification. Within thirty 705
days after the applicant is notified of the final decision of the 706

chief on the permit application, the applicant or any person with an interest that is or may be adversely affected may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

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

Sec. 1513.073. (A)(1) Upon petition pursuant to division (B) of this section, the chief of the division of mineral resources management shall designate an area as unsuitable for all or certain types of coal mining operations if the chief determines that reclamation pursuant to the requirements of this chapter is not technologically and economically feasible.

(2) Upon petition pursuant to division (B) of this section, a surface area may be designated unsuitable for all or certain types of coal mining operations if the operations will:

(a) Be incompatible with existing state or local land use plans or programs;

(b) Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems;

(c) Affect renewable resource lands in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, or aquifers and aquifer recharge areas;

(d) Affect natural hazard lands in which the operations could substantially endanger life and property, such lands to include

areas subject to frequent flooding and areas of unstable geology. 737

(3) The chief shall develop the following: 738

(a) A data base and an inventory system that will permit 739
proper evaluation of the capacity of different land areas of the 740
state to support and permit reclamation of coal mining operations; 741

(b) A method or methods for implementing land use planning 742
decisions concerning coal mining operations; 743

(c) Procedures for proper notice and opportunities for public 744
participation, including a public meeting prior to making any 745
designation or redesignation, pursuant to this section. 746

(4) Determinations of the unsuitability of land for coal 747
mining, as provided for in this section, shall be integrated as 748
closely as possible with present and future land use planning and 749
regulation processes at the federal, state, and local levels. 750

(5) The requirements of this section do not apply to lands on 751
which coal mining operations were being conducted on August 3, 752
1977, or under a permit issued pursuant to this chapter, or where 753
substantial legal and financial commitments in the operation were 754
in existence prior to January 4, 1977. 755

(B) A person having an interest that is or may be adversely 756
affected may petition the chief to have an area designated as 757
unsuitable for coal mining operations or to have such a 758
designation terminated. The petition shall contain allegations of 759
facts with supporting evidence that would tend to establish the 760
allegations. The chief shall hold a public meeting in the locality 761
of the affected area, after appropriate notice and publication of 762
the date, time, and location of the meeting within ninety days 763
after receipt of the petition, provided that the chief may extend 764
the time for holding the meeting an additional two hundred ten 765
days when, in the chief's judgment, such additional time is needed 766
for adequate review of the petition. Any person may appear at the 767

meeting and present a statement or evidence regarding the 768
petition. Within sixty days after the meeting, the chief shall 769
issue and furnish to the petitioner and any other participant at 770
the meeting a written decision regarding the petition, and the 771
reasons therefor. 772

(C) Prior to designating any land areas as unsuitable for 773
coal mining operations or terminating previous determinations of 774
unsuitability, the chief shall prepare a detailed statement on: 775

(1) The potential coal resources of the area; 776

(2) The demand for coal resources; 777

(3) The impact of the designation on the environment, the 778
economy, and the supply of coal. 779

(D) After August 3, 1977, and subject to valid existing 780
rights, no coal mining operations except those that existed on 781
August 3, 1977, shall be permitted: 782

(1) On any lands within the boundaries of units of the 783
national park system, the national wildlife refuge systems, the 784
national system of trails, the national wilderness preservation 785
system, the wild and scenic rivers system, including study rivers 786
designated under section 5(a) of the "Wild and Scenic Rivers Act," 787
82 Stat. 906 (1968), 16 U.S.C.A. 1274, and national recreation 788
areas designated by act of congress; 789

(2) On any federal lands within the boundaries of any 790
national forest unless approval is granted by the secretary of the 791
United States department of the interior; 792

(3) That will adversely affect any publicly owned park or any 793
places included in the national register of historic sites unless 794
approved jointly by the chief and the federal, state, or local 795
agency with jurisdiction over the park or the historic site; 796

(4) Within one hundred feet of the outside right-of-way line 797

of any public road, measured horizontally, except where mine 798
access roads or haulage roads join such right-of-way line and 799
except that the chief may permit the roads to be relocated or the 800
area affected to lie within one hundred feet of such road if after 801
public notice and opportunity for public meeting in the locality 802
of the affected area a written finding is made that the interests 803
of the public and the landowners affected thereby will be 804
protected; 805

(5) Within three hundred feet from any occupied dwelling, 806
measured horizontally, unless waived by the owner thereof, nor 807
within three hundred feet, measured horizontally, of any public 808
building, school, church, community, or institutional building, or 809
public park, nor within one hundred feet, measured horizontally, 810
of a cemetery. 811

Section 2. That existing sections 1513.07 and 1513.073 of the 812
Revised Code are hereby repealed. 813