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Sub. S. B. No. 181

To amend sections 1514.01, 1514.02, 1514.021, 1514.022, 1514.023, 1514.024, 1514.03, 1514.04, 1514.05, 1514.07, 1514.071, 1514.08, 1514.09, 1514.11, 1514.13, 1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 1514.46, 1514.50, 1514.99, and 1563.11 and to enact sections 1514.091, 1514.092, 1514.093, 1514.48, 1514.60, 1514.61, 1514.62, 1514.63, 1514.64, 1514.65, 1514.66, 1514.67, 1514.68, 1514.69, 1514.70, and 1514.71 of the Revised Code to establish regulations for the underground mining of limestone and dolomite.

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

Section 1. That sections 1514.01, 1514.02, 1514.021, 1514.022, 1514.023, 1514.024, 1514.03, 1514.04, 1514.05, 1514.07, 1514.071, 1514.08, 1514.09, 1514.11, 1514.13, 1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 1514.46, 1514.50, 1514.99, and 1563.11 be amended and sections 1514.091, 1514.092, 1514.093, 1514.48, 1514.60, 1514.61, 1514.62, 1514.63, 1514.64, 1514.65, 1514.66, 1514.67, 1514.68, 1514.69, 1514.70, and

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1514.71 of the Revised Code be enacted to read as follows:

Sec. 1514.01. As used in ~~this chapter~~sections 1514.01 to 1514.50 of the Revised Code:

(A) "Surface mining" means all or any part of a process followed in the production of minerals from the earth or from the surface of the land by surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits, and the incidental removal of coal at a rate less than one-sixth the total weight of minerals and coal removed during the year, but does not include: test or exploration boring; mining operations carried out beneath the surface by means of shafts, tunnels, or similar mine openings; the extraction of minerals, other than coal, by a landowner for the landowner's own noncommercial use where such material is extracted and used in an unprocessed form on the same tract of land; the extraction of minerals, other than coal, from borrow pits for highway construction purposes, provided that the extraction is performed under a bond, a contract, and specifications that substantially provide for and require reclamation practices consistent with the requirements of this chapter; the removal of minerals incidental to construction work, provided that the owner or person having control of the land upon which the construction occurs, the contractor, or the construction firm possesses a valid building permit; the removal of minerals to a depth of not more than five feet, measured from the highest original surface elevation of the area to be excavated, where not more than one acre of land is excavated during twelve successive calendar months; routine dredging of a watercourse for purely navigational or flood control purposes during which materials are removed for

noncommercial purposes, including activities conducted by or on behalf of a conservancy district, organized under Chapter 6101. of the Revised Code, for flood control purposes that are exempt from permitting requirements under section 10 of the "Rivers and Harbors Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended; or the extraction or movement of soil or minerals within a solid waste facility, as defined in section 3734.01 of the Revised Code, that is a sanitary landfill when the soil or minerals are used exclusively for the construction, operation, closure, and post-closure care of the facility or for maintenance activities at the facility.

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

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

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

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

(F)(1) "Operation" or "surface mining operation" means all of the premises, facilities, and equipment used in the process of removing minerals, or minerals and incidental coal, by surface mining from a mining area in the creation of which mining area overburden or minerals, or minerals and incidental

coal, are disturbed or removed~~, such surface mining area being located upon a single tract of land or upon two or more contiguous tracts of land. Separation by a stream or roadway shall not preclude the tracts from being considered contiguous~~.

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

(3) When the context indicates, "operation" or "underground minerals mining operation" has the same meaning as in section 1514.60 of the Revised Code.

(G) "Operator" means any person engaged in surface mining who removes minerals, or minerals and incidental coal, from the earth by surface mining or who removes overburden for the purpose of determining the location, quality, or quantity of a mineral deposit. "Operator" also means any person engaged in in-stream mining who removes minerals from the bottom of the channel of a watercourse by in-stream mining. "Operator" also includes an underground minerals mining operator as defined in section 1514.60 of the Revised Code when the context so indicates.

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

(I) "Dewatering" means the withdrawal of ground water from an aquifer or saturated zone that may result in the lowering of the water level within the aquifer or saturated zone or a

decline of the potentiometric surface within that aquifer or saturated zone.

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

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

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

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

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

(2) The extraction of minerals, other than coal, by a

landowner for the landowner's own noncommercial use when the material is extracted and used in an unprocessed form on the same tract of land.

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

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

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

(P) "Certified mine foreperson" means the person whom the operator of a surface mining operation places in charge of the conditions and practices at the mine, who is responsible for conducting workplace examinations under 30 C.F.R. part 56 or 30 C.F.R. part 57, as amended, and who has passed an examination for the position administered by the division of mineral resources management.

(Q) "Underground minerals mining" has the same meaning as in section 1514.60 of the Revised Code.

(R) "Activities related to making finished aggregate products" includes the processing, loading, crushing, conveying, screening, storing, washing, batching, mixing, heating, bagging, or drying necessary to make a product comprised of at least seventy-five per cent of an extracted industrial mineral.

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

No person shall engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief. However, a person who, on March 15, 2002, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this section until the existing permit expires.

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

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

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

description of the land of sufficient certainty that it may be located and distinguished from other lands;

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

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

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

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

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

(8) A statement of whether the applicant, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant

or the selection of officers, directors, or managers of the applicant has ever had a surface or in-stream mining permit or coal mining and reclamation permit issued by this or any other state suspended or revoked or has ever forfeited a surface or in-stream mining or coal mining and reclamation bond or cash, an irrevocable letter of credit, or a security deposited in lieu of a bond;

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

(10) A complete plan for surface or in-stream mining and reclamation of the area to be affected, which shall include a statement of the intended future uses of the area and show the approximate sequence in which mining and reclamation measures are to occur, the approximate intervals following mining during which the reclamation of all various parts of the area affected will be completed, and the measures the operator will perform to prevent damage to adjoining property and to achieve all of the following general performance standards for mining and reclamation:

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

(b) ~~Where a plan of zoning or other comprehensive plan has been adopted that governs land uses or the construction of public improvements and utilities for an area that includes the area sought to be mined, ensure that future land uses within the site will not conflict with the plan. On and after March 15, 2002, division (A)(10)(b) of this section does not apply to any surface or in-stream mining permit or applications for a surface or in-stream mining permit, any renewal of an existing surface or in-stream mining permit or application for a renewal of an existing surface or in-stream mining permit, any amendment or application for an amendment to an existing surface or in-stream mining permit, or any modification or application for a modification of a mining and reclamation plan of an existing surface or in-stream mining permit unless the application for such a permit, renewal, amendment, or modification is a resubmission, revision, or reconsideration of an application that was pending before the chief or was first approved prior to March 15, 2002.~~

~~(c)~~ Grade, contour, or terrace final slopes, wherever needed, sufficient to achieve soil stability and control landslides, erosion, and sedimentation. Highwalls will be permitted if they are compatible with the future uses specified in the plan and measures will be taken to ensure public safety. Where ponds, impoundments, or other resulting bodies of water are intended for recreational use, establish banks and slopes that will ensure safe access to those bodies of water. Where such bodies of water are not intended for recreation, include measures to ensure public safety, but access need not be provided.

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

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

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

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

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

~~(i)~~ (g) During mining and reclamation, control drainage so as to prevent the causing of flooding, landslides, and flood hazards to adjoining lands resulting from the mining operation. Leave any ponds in such condition as to avoid their constituting a hazard to adjoining lands.

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

(k) Ensure that mining and reclamation are carried out in the sequence and manner set forth in the plan and that

reclamation measures are performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the mining of the area unless the operator makes a showing satisfactory to the chief that the future use of the area requires a longer period for completing reclamation.

(l) During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing, and resoiling that are specified in the plan. Stabilize the slopes of and plant each spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur.

(m) During mining, promptly remove, store, or cover any coal, pyritic shale, or other acid producing materials in a manner that will minimize acid drainage and the accumulation of acid water;

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

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

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

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

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

(11) For any applicant, except an applicant for an in-

stream mining permit, who intends to extract less than ten thousand tons of minerals per year and no incidental coal, a current notarized tax map~~, in triplicate and notarized,~~ and the appropriate United States geological survey seven and one-half minute topographic map. Each copy shall bear the applicant's name and shall identify the area of land to be affected corresponding to the application.

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

The map shall comply with all of the following:

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

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

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

(d) Show the boundaries of the area of land to be affected during the period of the permit and the area of land estimated to be affected during the first year of operation, and name the surface and mineral owners of record of the area and the owners

of record of adjoining surface properties;

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

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

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

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

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

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

The certification of the maps shall read: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all of the information required by the surface or in-stream mining laws, as applicable, of the state." The certification shall be signed and attested

before a notary public. The chief may reject any map as incomplete if its accuracy is not so certified and attested.

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

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

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

(14) A certificate of public liability insurance issued by an insurance company authorized to do business in this state or obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code covering all underground minerals mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts not less than one million dollars;

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

invalid ~~during the term of the permit or renewal~~;

~~(15)~~ (16) A copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code, if applicable;

~~(16)~~ (17) For any applicant whose operation may result in dewatering, a compilation of data in a form that is prescribed by the chief and that is suitable to conduct ground water modeling in order to establish a projected cone of depression for purposes of section 1514.13 of the Revised Code. The chief shall adopt rules as provided in section 1514.08 of the Revised Code establishing the minimum requirements and standards governing the data required under this division.

~~(17)~~ (18) A statement by the applicant certifying that the applicant has communicated with the county engineer of the county in which the proposed surface or in-stream mining operation will be located regarding any streets and roads under the county engineer's jurisdiction that will be used by vehicles entering and leaving the proposed surface or in-stream mining operation;

~~(18)~~ (19) In the case of an application for an in-stream mining permit, and if required by the division of mineral resources management after review of an applicant's proposed in-stream mining plans, a hydraulic evaluation of the watercourse prepared by a professional engineer registered under Chapter 4733. of the Revised Code. If the hydraulic evaluation is required, it shall include, without limitation, all of the following:

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

watercourse;

(b) A profile of the channel bottom;

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

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

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

The chief may allow an applicant to deviate from the requirements of divisions ~~(A)(18)(a)~~ (A)(19)(a) to (d) of this section if the chief determines that such a deviation is appropriate.

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

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

of this section.

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

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

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

The chief shall issue an order granting a permit upon the chief's approval of an application, as required by this section, filing of the performance bond required by section 1514.04 of the Revised Code, payment of an acreage fee in the amount of seventy-five dollars multiplied by the number of acres estimated in the application that will comprise the area of land to be affected within the first year of operation under the permit, and payment of a permit fee. The amount of the permit fee for a surface mining permit shall be five hundred dollars, and the amount of the permit fee for an in-stream mining permit shall be two hundred fifty dollars.

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

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

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

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

~~after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.~~

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

~~(D) Before an operator engages in a surface or in-stream mining operation on land not described in the operator's permit, but that is contiguous to the land described in the operator's permit, the operator shall file with the chief an application for an amendment to the operator's permit.~~

(C)(1) The chief shall adopt rules in accordance with section 1514.08 of the Revised Code that establishes procedures and requirements regarding amendments to an operator's permit and shall define what constitutes a "significant" amendment for purposes of notice under section 1514.022 of the Revised Code. ~~Before approving an amendment, the chief shall require the information, maps, fees, and amount, except as otherwise provided by rule, of the performance bond as required for an original application under this section and shall apply the same prohibitions and restrictions applicable to land described in an~~

~~original application for a permit. An applicant for a significant amendment to a permit, as "significant" is defined by rule, shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code. If the chief disapproves the amendment, the chief shall state the reasons for disapproval in the order disapproving the amendment. Upon the approval of an amendment by the chief, the operator shall be authorized to engage in surface mining on the land or in-stream mining in the watercourse described in the operator's original permit plus the land or area of the watercourse described in the amendment until the date when the permit expires, or when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.~~

~~(E)~~ (2) An operator, at any time ~~and upon application therefor and approval by the chief,~~ may ~~amend the plan of mining and reclamation filed with the application for~~ apply to the chief for an amendment to a permit, in accordance with the rules, in order to ~~change~~ do any of the following:

(a) Change the reclamation measures to be performed~~, modify~~ ;

(b) Modify the interval after mining within which reclamation measures will be performed~~, change~~ ;

(c) Change the sequence in which mining or reclamation will occur at specific locations within the area affected~~, mine~~ ;

(d) Mine acreage previously mined or reclaimed~~, or for~~ ;

(e) Add land to the permit when the land is contiguous or when the land is located in whole or in part of the same township or municipal corporation identified in the permit; however, this division shall not be construed to prevent any county, township, or municipal corporation from enacting, adopting, or enforcing zoning regulations or ordinances to regulate mining activities on such added land.

(f) Conduct underground minerals mining activities in accordance with sections 1514.60 to 1514.70 of the Revised Code;

(g) For any other purpose, provided that the plan, as amended, includes measures that the chief determines will be adequate to prevent damage to adjoining property and to achieve the performance standards set forth in ~~division (A)(10) of this section~~chapter, as applicable. ~~An application for a significant amendment to a plan, as "significant" is defined by rule, shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code.~~

(3) An applicant for a significant amendment to a permit shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code.

(4) Before approving an amendment, the chief shall require the information, maps, fees, and the amount, except as otherwise provided by rule, of the performance bond as required for an original application under this section and shall apply the same prohibitions and restrictions applicable to land described in an original application for a permit.

(D) The chief may propose one or more amendments to the

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

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

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

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

~~(F)~~ (E) The holder of a surface, underground minerals, or in-stream mining permit who desires to transfer the rights granted under the permit to another person ~~at any time during the term of the permit or its renewal~~ shall file with the chief an application for the transfer of the permit. The chief shall issue an order approving or disapproving the transfer of the permit in accordance with criteria and procedures established by rule.

(F) Except for division (E) of this section, this section does not apply to any permit issued under sections 1514.60 to 1514.69 of the Revised Code.

Sec. 1514.021. ~~(A) A permit holder who wishes to continue surface or in-stream mining operations after the expiration date of the existing~~ Surface, underground minerals, and in-stream mining permits issued under this chapter, including any such permits issued prior to the effective date of this section, do not expire. However, the chief of the division of mineral resources management shall conduct a review of the operations of each such permit~~ or renewal permit shall file with the chief of the division of mineral resources management a notice of intent to renew for purposes of the renewal of a surface or in-stream mining permit or renewal permit at least ninety days before the expiration date of the existing permit or renewal permit. The notice of intent to renew shall be on a form that the chief prescribes and provides and shall be accompanied by a permit renewal fee. The amount of the fee for renewal of a surface mining permit or renewal permit shall be~~ at least once every five years in accordance with rules adopted under section 1514.08 of the Revised Code. Upon notice by the chief, the permit holder shall remit an annual fee of one thousand dollars~~,~~ ~~and the amount of the fee for renewal of an in-stream mining permit or renewal permit shall be~~ for activity subject to division (A)(3) of section 5749.02 of the Revised Code and five hundred dollars for activity subject to divisions (A)(4) and (A)(7) of section 5749.02 of the Revised Code.

~~(B) Upon receipt of a notice of intent to renew form and the permit renewal fee under division (A) of this section, the chief shall notify the permit holder to submit a renewal application package. The permit holder shall submit a complete renewal package to the chief at least thirty days prior to the expiration of the existing surface or in-stream mining permit or renewal permit. The renewal application package shall include~~

~~all of the following:~~

~~(1) A map that is a composite of the information required to be contained in the most recent annual report map under section 1514.03 of the Revised Code and of all surface or in-stream mining and reclamation activities conducted under the existing permit or renewal permit;~~

~~(2) The annual report required under section 1514.03 of the Revised Code;~~

~~(3) In the case of an applicant proposing a significant change to the plan of mining and reclamation, as "significant" is defined by rule, a copy of the advertisement that is required to be published in accordance with section 1514.022 of the Revised Code;~~

~~(4) Additional maps, plans, and revised or updated information that the chief determines to be necessary for permit renewal.~~

~~For a renewal permit requiring minor or minimal updates to the existing permit, renewal permit, or accompanying information, the chief may authorize a permit holder to file updated information through a surface mining permit modification process using a surface mining permit modification form. However, the chief may require such a permit holder to submit a complete renewal application package.~~

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

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

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

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

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

~~(D)(1) After receiving a complete renewal application package and permit renewal fees required under divisions (A) and (B) of this section, the chief shall do one of the following:~~

~~(a) Approve the application for renewal and issue an order granting a renewal permit;~~

~~(b) Issue an order denying a renewal permit;~~

~~(c) Notify the applicant in accordance with division (D)(2) of this section that there are deficiencies in the renewal~~

~~application package and that an extension of the time limit for issuing an order approving or disapproving the renewal permit has been granted.~~

~~In making a decision regarding a renewal application package, the chief shall review the package for compliance with this chapter and rules adopted under it.~~

~~(2) The chief shall notify a permit holder and, if applicable, the permit holder's consultant, surveyor, or engineer of deficiencies or errors in a renewal application package and shall include in the notification a discussion of the deficiencies or errors.~~

~~A permit holder shall have up to one hundred eighty days after the expiration of the permit holder's permit or renewal permit to submit a revised renewal application package. A permit holder may request, in writing, an extension of the one hundred-eighty-day period for revisions to the renewal application package. The chief may approve a sixty-day extension. The chief shall notify the permit holder of the chief's decision to either grant or deny the extension.~~

~~Upon the submission of a revised renewal application package that is determined to be complete by the chief, the chief shall proceed to approve or deny the application in accordance with division (D)(1)(a) or (b) of this section. If the revised renewal application package is not submitted within one hundred eighty days after the permit expiration date or, if an extension has been granted, within two hundred forty days after the permit expiration date, the chief shall issue an order denying the renewal permit in accordance with division (D)(1)(b) of this section.~~

~~(E) If an applicant for a renewal permit has complied with division (A) of this section, the applicant may continue surface or in-stream mining operations under the existing permit or renewal permit after its expiration date until the time period for filing a complete renewal application package has expired under division (D) of this section or until the chief issues an order denying the renewal permit.~~

~~(F) A permit holder who fails to submit a notice of intent to renew form and required permit renewal fees within the time prescribed by division (A) of this section and a renewal application package under division (B) of this section shall cease surface or in-stream mining operations on the expiration date of the existing permit or renewal permit. If such a permit holder then submits a notice of intent to renew form, an application for renewal, and the permit renewal fees on or before the thirtieth day after the expiration date of the expired permit or renewal permit and provides the information required by the chief under division (B) of this section within sixty days after the permit expiration date, the permit holder need not submit the final map and report required by section 1514.03 of the Revised Code until the later of thirty days after the chief issues an order denying the application for renewal or thirty days after the chief's order is affirmed upon appeal under section 1513.13 or 1513.14 of the Revised Code. An applicant under this division who fails to provide the information required by the chief under division (B) of this section within the prescribed time period shall submit the final map and report required by section 1514.03 of the Revised Code within thirty days after the expiration of that prescribed period.~~

~~(G) If the chief issues an order denying an application~~

~~for renewal of a permit or renewal permit after the expiration date of the permit, the permit holder shall cease surface or in-stream mining operations immediately and, within thirty days after the issuance of the order, shall submit the final report and map required under section 1514.03 of the Revised Code. The chief shall state the reasons for denial in the order denying renewal of the permit. A permit holder may appeal the chief's order denying the renewal under section 1513.13 of the Revised Code and may continue surface or in-stream mining and reclamation operations under the expired permit until the reclamation commission affirms the chief's order under that section and, if the applicant elects to appeal the order of the commission under section 1513.14 of the Revised Code, until the court of appeals affirms the order.~~

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

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

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

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

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

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

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

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

~~(d) An application filed under section 1514.021 of the Revised Code for the renewal of a permit if the application proposes a significant change to the plan of mining and reclamation, as "significant" is defined by rule~~ An application filed under section 1514.62 of the Revised Code for an underground minerals mining permit.

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

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

(B)(1) Except as otherwise provided in division (D) of this section, an applicant shall submit to the chief a copy of the applicant's advertisement required to be published under this division of the ownership, precise location, and boundaries of land to be affected by the surface, underground minerals, or

in-stream mining operation or proposed surface, underground minerals, or in-stream mining operation that is the subject of the application.

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

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

If requested by a governmental agency within thirty-five days following the date on which the governmental agency receives the written notice from the chief, the chief may hold an informal conference to aid in the public understanding of the permitting process. The informal conference shall be held within

two weeks after the chief determines to hold such a conference and shall be held in the county in which the surface, underground minerals, or in-stream mining operation is or is proposed to be located.

(C) Except as otherwise provided in division (D) of this section, an operation or any person having an interest that is or may be adversely affected by the operation or proposed operation and any governmental agency may file written comments about or objections to an application with the chief. In the case of interested persons who are not governmental agencies, the comments or objections shall be filed not later than thirty days after the last publication of the notice. In the case of governmental agencies, the comments or objections shall be filed not later than the date that the chief specified in the notice, except that at the chief's discretion, the chief may accept comments or objections from the agencies after that date if the chief considers doing so to be in the public interest. The chief immediately shall transmit comments or objections to the applicant and shall make them available to the public at the same location at which the application is available for inspection.

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

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

(2) A zoning variance or conditional use certificate for a mining operation, for which public notice and opportunity for comment have been provided, has been received within three

hundred sixty-five days prior to submittal of an application. In such a situation, an applicant shall provide the chief with a copy of the notice, certified by the publisher, that was previously published.

Sec. 1514.023. ~~Nothing~~ (A) Except as provided in division (B) of this section , nothing in this chapter or rules adopted under it shall be construed to prevent any county, township, or municipal corporation from enacting, adopting, or enforcing zoning resolutions or ordinances. However, the chief of the division of mineral resources management shall not enforce such zoning resolutions or ordinances.

(B) Sections 519.02 to 519.25 and sections 303.01 to 303.25 of the Revised Code and any other applicable provision of law governing township or county zoning authority confer no power on any township zoning commission, board of township trustees, board of zoning appeals, county rural zoning commission, board of county commissioners, or board of zoning to do either of the following:

(1) Require a mine operator to obtain a permit or amendment to a permit issued under this chapter prior to applying for zoning approval;

(2) Regulate underground minerals mining activity on any portion of land for which a surface mining permit has been issued under this chapter and rules adopted under it if one of the following applies:

(a) The portion has been zoned to allow for surface mining activities.

(b) A conditional use certificate or a variance allows surface mining activities on that portion of land.

(c) Surface mining activities are allowed on the portion of land as a nonconforming use.

Sec. 1514.024. (A) A local authority may enter into an agreement ~~with the operator of a surface or in-stream mining operation or of a proposed surface or in-stream mining operation~~ for the improvement of roads under the jurisdiction of that local authority that may be affected by ~~the~~ an operation or for other improvements within the jurisdiction of that local authority with either of the following:

(1) The operator of an existing or proposed surface, underground minerals, or in-stream mining operation;

(2) The operator of an existing or proposed facility conducting activities related to making finished aggregate products. ~~However~~

(B) However, nothing in this section requires the operator of a surface, underground minerals, or in-stream mining ~~operator~~ operation or the operator of an existing or proposed facility conducting activities related to making finished aggregate products to enter into such an agreement.

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

thereof.

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

Each annual report for an in-stream mining operation shall include a statement of the total tonnage removed by in-stream mining for each month and of the surface acreage and depth of material removed by in-stream mining and shall include a map that identifies the area affected by the in-stream mining if the in-stream mining for the year addressed by the report occurred beyond the area identified in the most recent approved map, soundings that depict the cross-sectional views of the channel bottom of the watercourse if the soundings depict a cross-sectional view of the channel bottom that is different from the most recent approved map, and water elevations for the watercourse if water elevations are different from those

indicated on the most recent approved map.

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

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

preceding year.

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

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

In the case of a final report for an in-stream mining operation, the map also shall include the information required under division ~~(A)(18)~~ (A)(19) of section 1514.02 of the Revised Code, as applicable.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is larger than the number of acres for which the operator has paid an acreage fee or filed a performance bond, upon notification by the chief, the operator shall pay an additional acreage fee in the amount of seventy-five dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee and shall file an additional performance bond in the amount, unless otherwise provided by rule, of five hundred dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the

operator has filed bond.

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

The fees collected pursuant to this section and section 1514.02 of the Revised Code shall be deposited with the treasurer of state to the credit of the mining regulation and safety fund created under section 1513.30 of the Revised Code.

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

Sec. 1514.04. (A) Upon receipt of notification from the chief of the division of mineral resources management of the chief's intent to issue an order granting a surface or in-stream mining permit to the applicant, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount, unless otherwise provided by rule, of ten thousand dollars. If the amount of land to be

affected is more than twenty acres, the applicant also shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of five hundred dollars per acre of land to be affected that exceeds twenty acres. Upon receipt of notification from the chief of the chief's intent to issue an order granting an amendment to a surface or in-stream mining permit, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount required in this division.

In the case of a surface mining permit, the bond shall be filed based on the number of acres estimated to be affected during the first year of operation under the permit. In the case of an amendment to a surface mining permit, the bond shall be filed based on the number of acres estimated to be affected during the balance of the period until the next anniversary date of the permit.

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

(B) A surety bond filed pursuant to this section and sections 1514.02 and 1514.03 of the Revised Code shall be upon the form that the chief prescribes and provides and shall be signed by the operator as principal and by a surety company authorized to transact business in the state as surety. The bond shall be payable to the state and shall be conditioned upon the faithful performance by the operator of all things to be done

and performed by the operator as provided in this chapter and the rules and orders of the chief adopted or issued pursuant thereto.

The operator may deposit with the chief, in lieu of a surety bond, cash in an amount equal to the surety bond as prescribed in this section or an irrevocable letter of credit or negotiable certificates of deposit issued by any bank organized or transacting business in this state having a cash value equal to or greater than the amount of the surety bond as prescribed in this section. Cash or certificates of deposit shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. If the operator deposits cash, the cash shall be credited to the performance cash bond refunds fund created in section 1501.16 of the Revised Code. If the operator deposits certificates of deposit, the chief shall require the bank that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by the federal deposit insurance corporation. The securities shall be security for the repayment of the certificate of deposit.

(C) Upon a deposit of cash, a letter of credit, or certificates with the chief, the chief shall hold it in trust for the purposes for which it has been deposited. The chief shall be responsible for the safekeeping of such deposits. An operator making a deposit of cash, a letter of credit, or certificates of deposit may withdraw and receive, from the chief, all or any part of the cash, letter of credit, or certificates in the possession of the chief upon depositing with the chief an irrevocable letter of credit or negotiable certificates of deposit issued by any bank organized or transacting business in this state, equal in value to the value

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

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

(E) Except as provided in division (D) of this section, this section does not apply to any permit issued under sections 1514.60 to 1514.69 of the Revised Code. However, if during the underground minerals mining operation, the land surface is affected, the chief shall require the area of the land affected to be reclaimed, and the permittee shall adhere to the bonding requirements of this section. Notwithstanding any other provision of law to the contrary, the chief shall not require a surface mining permit to be issued to an underground minerals mining permittee.

Sec. 1514.05. (A) At any time within the period allowed an

operator by section 1514.02 of the Revised Code to reclaim an area of land affected by surface or in-stream mining, the operator may file a request, on a form provided by the chief of the division of mineral resources management, for inspection of the area of land upon which the reclamation, other than any required planting, is completed. The request shall include all of the following:

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

(2) The permit number;

(3) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate. In the case of an in-stream mining operation, the map also shall include, as applicable, the information required under division ~~(A)(18)~~ (A)(19) of section 1514.02 of the Revised Code.

The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief approves the reclamation, other than any required planting, as meeting the requirements of this chapter, rules adopted thereunder, any orders issued during the mining or reclamation, and the specifications of the plan for mining and reclaiming, the chief shall issue an order to the operator and the operator's surety releasing them from liability for one-half of the total amount of their surety bond on deposit to ensure reclamation for the area upon which reclamation is completed. If the operator has deposited cash, an irrevocable letter of credit, or certificates of deposit in lieu of a surety bond to

ensure reclamation, the chief shall deliver to the operator or the operator's authorized agent one-half of the amount so held.

If the chief does not approve the reclamation, other than any required planting, the chief shall notify the operator by certified mail. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the performance bond in the same manner as in the case of approval of reclamation, other than any required planting, by the chief, and the chief shall proceed as in that case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall issue another order declaring that the operator has failed to reclaim and, if the operator's permit has not already ~~expired or~~ been revoked, revoking the operator's permit. The chief shall thereupon proceed under division (C) of this section.

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

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

(2) The permit number;

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

(4) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate. In the case of an in-stream mining operation, the map also shall include the information required under division ~~(A)(18)~~ (A)(19) of section 1514.02 of the Revised Code.

The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief finds that the reclamation meets the requirements of this chapter, rules adopted under it, any orders issued during the mining and reclamation, and the specifications of the plan for mining and reclaiming and decides to release any remaining performance bond on deposit to ensure reclamation of the area on which reclamation is completed, within ten days of completing the inspection and evaluation, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation other than required planting, and the chief shall proceed as in that case.

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

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

(C) Upon issuing an order under division (A) or (B) of this section declaring that the operator has failed to reclaim, the chief shall make a finding as to the number and location of the acres of land that the operator has failed to reclaim in the manner required by this chapter. The chief shall order the release of the performance bond in the amount of five hundred dollars per acre for those acres that the chief finds to have been reclaimed in the manner required by this chapter. The release shall be ordered in the same manner as in the case of other approval of reclamation by the chief, and the chief shall proceed as in that case. If the operator has on deposit cash, an

irrevocable letter of credit, or certificates of deposit to ensure reclamation of the area of the land affected, the chief at the same time shall issue an order declaring that the remaining cash, irrevocable letter of credit, or certificates of deposit are the property of the state and are available for use by the chief in performing reclamation of the area and shall proceed in accordance with section 1514.06 of the Revised Code.

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

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

If the surety chooses not to perform and so notifies the chief, does not respond to the chief's notice within ten days of

receipt thereof, or fails to begin work within thirty days of the day it timely notifies the chief of its decision to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work and demanding payment of the amount due, as required by this chapter.

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

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

(B) If the chief finds that an operator has violated any requirement of this chapter, failed to perform any measure set forth in the approved plan of mining and reclamation that is necessary to prevent damage to adjoining property or to achieve, or has otherwise failed to achieve, the performance standards of division (A)(10) of section 1514.02 of the Revised Code, the

performance standards for an underground minerals mine established by the chief under rules adopted pursuant to section 1514.61 of the Revised Code, or caused damage to adjoining property, the chief may issue orders directing the operator to cease violation, perform such measures, achieve such standards, or prevent or abate off-site damage. The order shall identify the operation where the violation occurs, the specific requirement violated, measure not performed, standard not achieved, or off-site damage caused, and where practicable prescribe what action the operator may take to comply with the order. The chief shall fix and set forth in the order a reasonable date or time by which the operator shall comply, and the order shall state that the chief may revoke the operator's permit if the order is not complied with by that date or time. If upon that date or time the chief finds that the operator has not complied with the order, the chief may issue an order revoking the operator's permit.

(C)(1) Notwithstanding any other provision of law to the contrary, if the chief issues an order under division (B) of this section to an operator of an underground minerals mining operation to address subsidence, as defined in section 1514.60 of the Revised Code, the order shall not require the operator to address, abate, repair, restore, mitigate, or remediate the subsidence on mine property unless the subsidence presents a danger to the general public or to property described in an utility easement. For subsidence occurring off of mine property, in no event shall the order require the repair, restoration, mitigation, or remediation of any buildings or structures, fixtures, or personal property. The chief shall not issue an order under division (B) of this section to an operator of an underground minerals mining operation to provide compensation to

any property owner for damages allegedly caused by the underground mining operation.

(2) As used in this division, "general public" means any individual who has lawful access to an area open to all members of the public.

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

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

(C) Upon issuance of a notice of noncompliance with an order, the chief shall inform the person to whom the notice of noncompliance is issued of the amount of any civil penalty to be assessed and provide an opportunity for an adjudicatory hearing with the reclamation commission pursuant to section ~~1514.09~~ 1514.091 of the Revised Code. The person charged with the penalty shall have thirty days from receipt of the assessment to pay the penalty in full or, if the person wishes to contest the amount of the penalty, file a ~~petition for review of the assessment~~ notice of appeal with the commission pursuant to section ~~1514.09~~ 1514.091 of the Revised Code and forward the

amount of the penalty to the secretary of the commission as required by this division. Failure to forward the money to the secretary within thirty days after the chief informs the person of the amount of the penalty shall result in a waiver of all legal rights to contest the amount of the penalty.

If, after a hearing, the commission affirms or modifies the amount of the penalty, the person charged with the penalty shall have thirty days after receipt of the written decision to file an appeal from the commission's order in accordance with section ~~1514.09~~ 1514.092 of the Revised Code.

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

(1) If it is determined that the amount of the penalty should be reduced, within thirty days, remit the appropriate amount of the penalty to the person, with interest, and forward any balance of the penalty, with interest, to the chief for deposit in the mining regulation and safety fund created in section 1513.30 of the Revised Code for reclamation of abandoned surface, underground minerals, or in-stream mining operations in the state;

(2) If the penalty was not reduced, forward the entire penalty, with interest, to the chief for deposit in the mining regulation and safety fund for reclamation of abandoned surface, underground minerals, or in-stream mining operations in the state.

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

Sec. 1514.08. (A) The chief of the division of mineral resources management may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code in order to prescribe procedures for submitting applications for permits, amendments to permits, and amendments to plans of mining and reclamation; filing annual reports and final reports; requesting inspection and approval of reclamation; paying permit and filing fees; and filing and obtaining the release of performance bonds deposited with the state. For the purpose of preventing damage to adjoining property or achieving one or more of the performance standards established in division (A)(10) of section 1514.02 of the Revised Code, the chief may establish classes of mining industries, based upon industrial categories, combinations of minerals produced, and geological conditions in which surface or in-stream mining operations occur, and may prescribe different rules consistent with the performance standards for each class. For the purpose of apportioning the workload of the division of mineral resources management among the quarters of the year, the rules may require that applications for permits and annual reports be filed in different quarters of the year, depending upon the county in which the operation is located.

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

(1) With respect to in-stream mining, and in consultation with the chief of the division of water resources, determine periods of low flow, which are the only time periods during

which in-stream mining is allowed, and develop and implement any criteria, in addition to the criteria established in section 1514.02 of the Revised Code, that the chief determines are necessary for the permitting of in-stream mining;

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

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

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

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

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

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

(4) Establish a framework and procedures under which the amount of any bond required to be filed under this chapter to ensure the satisfactory performance of the reclamation measures required under this chapter may be reduced by subtracting a credit based on the operator's past compliance with this chapter and rules adopted and orders issued under it. The rules also shall apply to cash, an irrevocable letter of credit, or a

certificate of deposit that is on deposit in lieu of a bond. In establishing the amount of credit that an operator or applicant may receive based on past compliance, the chief may consider past compliance with respect to any permit for a surface or in-stream mining operation that has been issued in this state to the operator or applicant.

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

(6) Establish procedures and requirements governing amendments to surface, in-stream, and underground minerals mining permits in cases where land may be added to the permit;

(7) Establish procedures and requirements governing permit reviews required under section 1514.021 of the Revised Code.

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

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

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

Notwithstanding section 1513.13 of the Revised Code, an operator may appeal the determination of the chief of the division of mineral resources management that is made under division (D) of section 1514.43 of the Revised Code within ten days after the operator receives a copy of the determination.

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

Sec. 1514.091. (A) As used in this section, "action" includes any order or any other decision, including any modification, vacation, or termination of such an order or decision taken by the chief of the division of mineral resources management concerning a surface, in-stream, or underground minerals mining operation.

(B)(1) Except as otherwise provided in this chapter, any person having an interest that is or may be adversely affected by an action may initiate an appeal of the action by filing a notice of appeal with the reclamation commission within thirty days after the action is served upon the person.

(2) The person shall file a copy of the notice of appeal with the chief within three days after filing the notice of appeal with the commission. Additionally, if the permit holder

is not the appellant, the person shall serve a copy of the notice of appeal on the permit holder within three days after filing the notice of appeal with the commission.

(3) The permit holder shall be entitled to intervene in the appeal upon filing notice of intervention with the commission within thirty days of receiving the notice under division (B)(2) of this section. Such a permit holder shall be a party to the action upon filing of the notice under this division.

(4) A notice of appeal shall contain a copy of the action complained of and the grounds upon which the appeal is based. The commission has exclusive original jurisdiction to hear and decide such appeals. The filing of a notice of appeal under division (B) of this section does not operate as a stay of any action of the chief.

(5) The commission shall conduct an adjudication hearing regarding each appeal. The commission shall give the applicable permittee, the chief, and any other interested persons written notice of the time and place of the hearing at least five days prior to the hearing. The hearing shall be of record. The commission shall conduct hearings and render decisions in a timely fashion.

(6) Any person authorized under this section to appeal to the commission may request an informal review by the chief or the chief's designee by filing a written request with the chief within thirty days after an action is served upon the person. Filing of the written request shall toll the time for appeal before the commission, but shall not operate as a stay of any action of the chief.

(C) The commission shall affirm the action of the chief unless the commission determines that it is arbitrary, capricious, or otherwise inconsistent with law. If the commission makes such a determination, the commission may modify the action or vacate and remand it to the chief for further proceedings that the commission may direct.

(D)(1) The chairperson of the commission, under conditions the chairperson prescribes, may grant any temporary relief that the chairperson considers appropriate pending final determination of an appeal if all of the following conditions are met:

(a) All parties to the appeal have been notified and given an opportunity for a hearing on the request for temporary relief and an opportunity to be heard at the hearing regarding the request.

(b) The person requesting temporary relief shows that there is a substantial likelihood that the person will prevail on the merits.

(c) The relief will not adversely affect public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(2) The chairperson shall issue a decision regarding temporary relief expeditiously. Any party to an appeal filed with the commission who is aggrieved or adversely affected by a decision of the chairperson to grant or deny temporary relief under this section may appeal that decision to the full commission. The commission may confine its review to the record developed at the hearing before the chairperson. The party shall file the appeal with the commission within thirty days after the

chairperson issues the decision on the request for temporary relief. The commission shall issue a decision as expeditiously as possible. The commission shall affirm the decision of the chairperson granting or denying temporary relief unless it determines that the decision is arbitrary, capricious, or otherwise inconsistent with law.

Sec. 1514.092. (A) Any party aggrieved or adversely affected by a decision of the reclamation commission may appeal to the court of appeals of the county in which the operation that is the subject of the appeal is located, or to the court of appeals of Franklin county. The court in which the appeal is made has exclusive jurisdiction over the appeal. The party shall file the appeal within thirty days of issuance of the decision of the commission. The court shall confine its review to the record certified by the commission. The court may, upon motion, grant such temporary relief as it considers appropriate pending final disposition of the appeal if all of the following apply:

(1) All parties to the appeal have been notified and given an opportunity to be heard on a request for temporary relief.

(2) The person requesting the relief shows that there is a substantial likelihood that the person will prevail on the merits.

(3) The relief will not adversely affect public health or safety or the health or safety of miners or cause significant imminent environmental harm to land, air, or water resources.

The court shall affirm the decision of the commission unless the court determines that it is arbitrary, capricious, or otherwise inconsistent with law, in which case the court shall vacate the decision and remand to the commission for such

further proceedings as it may direct.

(B) Any order of the chief of the division of mineral resources management to adopt a rule is subject to judicial review in the Franklin county court of appeals, which court has exclusive original jurisdiction to review the order. A petition for review of the order shall be filed within thirty days from the date of such order. The petition may be made by any person who participated in the rule-making proceedings and who is aggrieved by the order. The court shall confine its review to the record of the rule-making proceedings. The order shall be affirmed unless the court concludes that the order is arbitrary, capricious, or otherwise inconsistent with law, in which case the court shall vacate the order or portion thereof and remand to the chief for such further proceedings as it may direct.

Sec. 1514.093. (A) For the purpose of conducting any public adjudicatory hearing under this chapter, the reclamation commission or the chief may do both of the following:

(1) Require the attendance of witnesses and the production of books, records, and papers;

(2) At the request of any party, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, papers, or other material relevant to the inquiry, directed to the sheriff of the counties where the witnesses or materials are found. Such subpoenas shall be served and returned in the same manner as subpoenas issued by courts of common pleas are served and returned. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases.

(B) Witnesses shall be paid the fees and mileage provided

for under section 119.094 of the Revised Code.

(C) In cases of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of the county in which such disobedience, neglect, or refusal occurs, or any judge thereof, on application of the chief or the commission or any member thereof, shall compel obedience by attachment procedures for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(D) A witness at any hearing shall testify under oath or affirmation, which the chief or any member of the commission may administer.

(E)(1) A hearing officer may, in accordance with instructions from the commission, preside over all pre-hearing matters, including hearing and deciding all pre-trial motions. A party may, within fourteen days after receipt of the decision of a pre-trial motion, serve and file written objections to the hearing officer's decision with the secretary of the commission. Objections shall be specific and state with particularity the grounds therefor. Upon consideration of the objections, the commission may adopt, reject, or modify the decision. When the commission hears an appeal, the hearing officer shall act as the legal advisor to the commission and, at the direction of the commission, the hearing officer shall draft the decision of the commission. The hearing officer shall, at the direction of the commission, assume the duties and responsibilities of the secretary of the commission.

(2) Upon the unanimous consent of all parties to the

appeal, a hearing officer may hear an appeal and shall have the same powers and authority in conducting the hearing as granted to the commission. Whenever a hearing officer conducts a hearing, the officer shall prepare a report setting forth the hearing officer's findings of fact and conclusions of law and a recommendation of the action to be taken by the commission. The hearing officer shall file the report with the secretary of the commission and shall mail a copy by certified mail to the parties. A party may, within fourteen days after receipt of the report, serve and file written objections to the hearing officer's report with the secretary of the commission. Objections shall be specific and state with particularity the grounds therefor. Upon consideration of the objections, the commission may adopt, reject, or modify the report. The commission also may hear additional evidence, return the report to the hearing officer with instructions, or hear the matter itself.

Sec. 1514.11. In addition to the purposes otherwise authorized by law, the chief of the division of mineral resources management may use money in the mining regulation and safety fund created under section 1513.30 of the Revised Code for the administration and enforcement of this chapter~~.~~; for the reclamation of land affected by surface, underground minerals, or in-stream mining under a permit issued under this chapter that the operator failed to reclaim and for which the performance bond filed by the operator is insufficient to complete the reclamation~~.~~; and for the reclamation of land affected by surface, underground minerals, or in-stream mining that was abandoned and left unreclaimed and for which no permit was issued or bond filed under this chapter. Also, the chief may use the portion of the mining regulation and safety fund that

consists of money collected from the severance taxes levied under section 5749.02 of the Revised Code for mine safety and first aid training. For purposes of reclamation under this section, the chief shall expend money in the fund in accordance with the procedures and requirements established in section 1514.06 of the Revised Code and may enter into contracts and perform work in accordance with that section.

Fees collected under sections 1514.02, 1514.021, and 1514.03 of the Revised Code and money collected from the severance taxes levied under section 5749.02 of the Revised Code shall be credited to the fund in accordance with those sections. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under section 1514.99 of the Revised Code shall be credited to the fund.

Sec. 1514.13. (A) The chief of the division of mineral resources management shall use the compilation of data for ground water modeling submitted under section 1514.02 of the Revised Code to establish a projected cone of depression for any surface mining operation that may result in dewatering. The chief also may require a cone of depression to be established and incorporated into an existing permit that was issued under section 1514.02 of the Revised Code if a complaint investigation determines that dewatering may be occurring. The chief shall consult with the chief of the division of ~~water resources~~ geological survey when projecting a cone of depression. An applicant for a surface mining permit for such an operation may submit ground water modeling that shows a projected cone of depression for that operation to the chief of the division of mineral resources management, provided that the modeling complies with rules adopted by the chief regarding ground water

modeling. However, the chief shall establish the projected cone of depression for the purposes of this section.

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

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

(2) Replacement of water supplies.

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

If the chief receives a written complaint, the chief immediately shall send a copy of the complaint to the operator, and the operator immediately shall respond by sending the chief a statement that explains how the operator resolved or will resolve the complaint. If the operator receives a written complaint, the operator immediately shall send to the chief a copy of the complaint and include a statement that explains how the operator resolved or will resolve the complaint. Not later than seventy-two hours after receipt of the complaint, the

operator shall provide the owner a supply of water that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. The operator shall maintain that water supply until the operator provides a permanent replacement water supply to the owner under division (B)(3) of this section or until the division of mineral resources management completes the evaluation under division (B)(2) of this section, whichever is applicable.

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

(3) If, within fourteen days after receipt of the

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

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

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

If the operator receives a written complaint, the operator immediately shall send the chief a copy of the complaint. If the chief receives a written complaint, the chief immediately shall send the operator a copy of the complaint. The chief shall investigate any complaint submitted under this division and, upon completion of the investigation, immediately shall send the results of the investigation to the operator and to the owner

that filed the complaint.

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

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

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

Sec. 1514.40. (A) As used in sections 1514.41 to 1514.47 of the Revised Code, "rule" means a rule adopted under this section unless the context indicates otherwise.

(B) In accordance with Chapter 119. of the Revised Code, the chief of the division of mineral resources management, in consultation with a statewide association that represents the surface mining industry, shall adopt rules governing surface and underground minerals mining operations that do all of the following:

~~(A)~~ (1) For the purpose of establishing safety standards governing surface and underground minerals mining operations, incorporate by reference 30 C.F.R. parts 46, 47, 48, 50, 56, 58,

and 62, as amended;

~~(B)~~ (2) Establish criteria, standards, and procedures governing safety performance evaluations conducted under section 1514.45 of the Revised Code, including requirements for the notification of operators and the identification of authorized representatives of miners at surface and underground minerals mining operations for purposes of inspections conducted under ~~sections 1514.41 to 1514.47 of the Revised Code~~this chapter;

~~(C)~~ (3) Establish requirements governing the reporting and investigation of accidents at surface and underground minerals mining operations. In adopting the rules, the chief shall establish requirements that minimize duplication with any reporting and investigations of accidents that are conducted by the mine safety and health administration in the United States department of labor.

~~(D)~~ (4) Establish the time, place, and frequency of mine safety training conducted under ~~section 1514.06 of the Revised Code~~ this chapter and a fee, if any, for the purpose of that section. The amount of the fee shall not exceed the costs of conducting the training that is required under that section.

~~(E)~~ (5) Establish the minimum qualifications necessary to take the examination that is required for certification of certified mine forepersons under division (B) of section 1514.47 of the Revised Code and requirements, fees, and procedures governing the taking of the examination;

~~(F)~~ (6) Establish requirements and fees governing the reissuance of certificates under division (C) of that section;

~~(G)~~ (7) Establish requirements and procedures for the approval of training plans submitted under division (D) of that

section for the use of qualified persons to conduct examinations of surface and underground minerals mining operations in lieu of certified mine forepersons and minimum qualifications of those persons. The rules shall include requirements governing training frequency and curriculum that must be provided for qualified persons under such plans and shall establish related reporting and record keeping requirements.

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

(C) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section governing surface or underground minerals mining is not subject to sections 121.95 to 121.953 of the Revised Code.

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

(B) If a surface or underground minerals mining operation is identified through a safety performance evaluation as having three or more violations per day during an inspection conducted by the mine safety and health administration in the United States department of labor, the chief shall conduct a minimum of two inspections of the operation for one year following the identification. However, the chief, in consultation with a statewide organization representing ~~the~~ industrial minerals ~~surface mining organization~~, may adopt rules, in accordance with Chapter 119. of the Revised Code, establishing exceptions to the

safety inspection requirement under this division.

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

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

Sec. 1514.42. The chief of the division of mineral resources management may conduct one safety audit at a surface mining operation and at an underground minerals mining operation annually if the operator of the operation has requested the division of mineral resources management to conduct mine safety training for that year. The safety audit shall be scheduled at a time to which the chief and the operator mutually agree and shall not continue more than one day. The chief shall conduct additional safety audits at any surface or underground minerals mining operation if requested by the operator of the operation. If the chief conducts a safety audit, the operator shall ensure that the chief has a copy of the training plan that is required by 30 C.F.R. part 46, as amended, at the time of the audit.

After completion of an audit, the chief shall prepare a report that describes the general conditions of the ~~surface mining~~ operation, lists any hazardous conditions at the operation, lists any violations of the safety standards established in rules, and describes the nature and extent of any hazardous condition or violation found and the corresponding

remedy for each hazardous condition or violation. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

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

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

(C) Except as otherwise provided in section 1514.44 of the Revised Code or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, after completion of an inspection of a surface or underground minerals mining operation, the chief shall prepare a report that describes the general conditions of the surface or underground minerals mining operation, lists any hazardous conditions at the operation, lists any violations of the safety standards established in rules, and describes the nature and extent of any hazardous condition or violation found and the corresponding remedy for

each hazardous condition or violation. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

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

(E) An operator shall not appeal the contents of a report prepared under division (C) of this section. However, an operator may appeal a determination of the chief made under division (D) of this section.

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

Sec. 1514.44. If during an inspection conducted under section 1514.41 of the Revised Code or a safety audit conducted under section 1514.42 of the Revised Code, the chief of the division of mineral resources management finds a condition or

practice at a surface or underground minerals mining operation that could reasonably be expected to cause the death of or imminent serious physical harm to an employee of the operation, the chief immediately shall issue orders to safeguard the employees, notify the operator of the condition or practice, and require the operator to abate the condition or practice within a reasonable period of time. In all such situations, the chief may require the operation to cease in the area in which the condition or practice is occurring or may require the entire operation to cease, if necessary, until the condition or practice that could reasonably be expected to cause death or serious physical harm is eliminated.

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

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

Sec. 1514.46. If the operator of a surface or underground minerals mining operation requests the division of mineral resources management to conduct mine safety training, the chief

of the division of mineral resources management shall conduct mine safety training for the employees of that operator. For persons who are not employed by a holder of a surface or underground minerals mining permit issued under this chapter and who seek the training, the chief may charge a fee in an amount established in rules for conducting it. The safety training shall be conducted in accordance with rules and shall emphasize the standards adopted in rules and include any other content that the chief determines is beneficial. Any fees collected under this section shall be deposited in the state treasury to the credit of the mining regulation and safety fund created in section 1513.30 of the Revised Code.

Sec. 1514.48. A member of a mine rescue team who is acting pursuant to 30 C.F.R. Part 49 and provides rescue services at an underground minerals mine is an agent of the state and is immune from any liability associated with the mine rescue.

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

(B) For purposes of performing reclamation of land affected by surface or underground minerals mining operations on which the holder of a permit issued under this chapter has defaulted or otherwise failed to timely conduct the reclamation required by section 1514.05 of the Revised Code, the chief may enter on the land and perform reclamation that the chief

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

(C) When conducting investigations pursuant to section 1514.13 or 1514.66 of the Revised Code, the chief or an authorized employee of the division may enter on lands to conduct water supply surveys, measure ground water levels and collect data when necessary to define the cone of depression, or perform other duties for the purposes of that section.

Sec. 1514.60. As used in sections 1514.60 to 1514.70 of the Revised Code:

(A) "Dewatering" has the same meaning as in section 1514.01 of the Revised Code.

(B) "Mine development" means the construction, blasting, excavation, and other activity associated with the development of a mine entry, including shafts and exploratory drilling. "Mine development" does not include the production of underground minerals.

(C) "Mine entry" means an opening in the ground surface, mine floor, or highwall face for developing an underground mine,

including the development of shafts for access, safety, extraction of minerals, ventilation, or other mining purposes.

(D) "Mine property" means all of the following:

(1) The land owned by the underground minerals mining operator;

(2) The land leased by the operator;

(3) The mineral interest owned by, leased by, or otherwise under the control of the operator.

(E) "Operation" or "underground minerals mining operation" means all of the surface or sub-surface premises, facilities, and equipment used in the process of removing underground minerals by underground minerals mining from mine property. Separation by a surface stream or roadway does not preclude the tracts from being considered contiguous.

(F) "Operator" or "underground minerals mining operator" means the person engaged in underground minerals mining on mine property.

(G) "Subsidence" means surface caving or sinking of a part of the earth's crust due to underground mining excavations that directly damages land or any structures. "Subsidence" does not include lateral or vertical ground movement caused by an earthquake, landslide, soil conditions, soil erosion, soil freezing and thawing, improperly compacted soil, construction defects, roots of trees and shrubs, or collapse of storm and sewer drains.

(H) "Underground minerals" means limestone or dolomite.

(I) "Underground minerals mining" means the underground mining of limestone or dolomite, including all or any part of

the process followed in the production of limestone or dolomite carried out beneath the surface by means of shafts, tunnels, room and pillar, or similar mine openings or workings.

Sec. 1514.61. (A) In accordance with Chapter 119. of the Revised Code, the chief of the division of mineral resources management shall adopt rules governing underground minerals mining operations that establish all of the following:

(1) The permit application process, the form of which shall comply with section 1514.62 of the Revised Code;

(2) Any application fees or other fees associated with the permitting and operation of an underground minerals mine. Fees collected pursuant to rules adopted under division (A)(3) of this section shall be deposited in the state treasury to the credit of the mining regulation and safety fund created under section 1513.30 of the Revised Code.

(3) Performance standards for underground minerals mining, including a periodic compliance review;

(4) Standards and requirements governing the detonation of explosives that ensure that explosives are used in such a manner so as to prevent damage to adjoining property and injury to persons, including special standards and requirements for the development of the mine opening, taking into consideration the practicalities of that activity;

(5) Information to be included in an annual or final report as required under section 1514.68 of the Revised Code;

(6) Procedures for investigating complaints regarding dewatering and any procedures, standards, and requirements governing water replacement;

(7) Any other requirements that the chief determines is necessary for administration of the program for the regulation of underground minerals mining consistent with sections 1514.60 to 1514.69 of the Revised Code.

(B) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 1514.62. In accordance with rules adopted under section 1514.61 of the Revised Code, the chief of the division of mineral resources management shall prescribe an application for an operator to obtain an underground minerals mining permit or an amendment to a surface mining permit in accordance with division (C)(2) of section 1514.02 of the Revised Code. The chief shall require such applicant to include all of the following information on the application form:

(A) The name and address of the proposed underground minerals mine operator;

(B) The name and address of the owner or lessor of the mineral interest in the land upon which the applicant proposes to engage in underground minerals mining, if different from the operator;

(C) The method and design of the underground mining operation that is to be employed by the mine operator to extract underground minerals;

(D) The depth of the deposit to be mined;

(E) A certificate of public liability insurance issued by an insurance company authorized to do business in this state or obtained pursuant to sections 3905.30 to 3905.35 of the Revised

Code covering all underground minerals mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts of not less than one million dollars;

(F) A statement that the applicant has corresponded with the county engineer of the county in which the underground minerals mining operation is proposed to be located regarding any streets and roads under the county engineer's jurisdiction under which mining will take place;

(G) A complete plan for underground minerals mining. The plan shall show the approximate sequence in which mining measures are to occur and the measures the operator will perform to prevent damage to adjoining property and to achieve the performance standards for mining established by the chief under section 1514.61 of the Revised Code. Such plan shall be consistent with any federal standard governing underground minerals mining.

(H) Any other information that the chief determines is necessary and appropriate.

Sec. 1514.63. (A) In accordance with rules adopted under section 1514.61 of the Revised Code, the chief of the division of mineral resources management shall issue an order granting an underground minerals mining permit upon the chief's approval of an application for the permit and payment of all applicable fees established under those rules. However, the chief shall not issue a permit if either of the following apply:

(1) The chief determines that the measures set forth in the mining plan required under section 1514.62 of the Revised Code are likely to be inadequate to prevent damage to adjoining

property or to achieve one or more of the applicable performance standards required by the chief.

(2) The land on or under which the underground minerals mining is to take place is closer than fifty feet of horizontal distance to any adjacent lands in which the operator making application does not own, lease, or control the mineral interest, unless the owner of such land consents in writing that the underground minerals mining may occur closer than fifty feet of the horizontal distance. The consent, or a certified copy of it, shall be attached to the application as part of the permanent record of the application for an underground minerals mining permit and runs with the land. As used in division (A)(2) of this section, "adjacent lands" does not include any easements and any railroad, utility, street, and highway rights-of-way.

(B) The chief may suspend or revoke an underground minerals mining permit for a violation of applicable provisions of this chapter, a rule adopted under it, a term or condition of a permit issued under section 1514.62 of the Revised Code, or an order of the chief. Prior to such suspension or revocation, the chief shall conduct an investigation and hearing in accordance with Chapter 119. of the Revised Code.

(C)(1) Notwithstanding any requirement or obligation to the contrary in this chapter, the chief shall issue, upon request and without application, an order granting an underground minerals mining permit or an amendment to a surface mining permit, as applicable, to either of the following:

(a) Any operator of an underground minerals mining operation in existence prior to and on the effective date of this section;

(b) A person who has begun to undertake development of an underground minerals mining operation prior to the effective date of this section.

(2) The underground minerals mining permit or amendment to a surface mining permit so granted shall include all mine property at the time of the application.

(3) An operator or any such person shall have twenty-four months after the effective date of this section to request an order granting an underground minerals mining permit or an amendment to a surface mining permit to conduct underground minerals mining from the chief under this division. Notwithstanding any other provision of law to the contrary, such an order granting a permit or such an amendment is not appealable by any person other than the operator or the person undertaking development of an underground minerals mining operation.

Sec. 1514.64. No person shall do any of the following:

(A) Except as provided in division (C) of section 1514.63 of the Revised Code, engage in underground minerals mining without an underground minerals mining permit or amendment to a surface mining permit issued by the chief of the division of mineral resources management;

(B) Exceed the limits of an underground minerals mining permit or amendment to a permit by mining land that is not authorized under the permit;

(C) Purposely misrepresent or omit any material fact in an application for an underground minerals mining permit or amendment, an annual or final report, or any hearing or investigation conducted by the chief or the reclamation

commission;

(D) Fail to perform any measure set forth in an approved plan of mining that is necessary to prevent damage to adjoining property or to achieve a performance standard required in rules adopted under section 1514.61 of the Revised Code;

(E) Violate any other applicable requirement of this chapter, a rule adopted under it, a term or condition of a permit or amendment to a permit issued under section 1514.62 or division (C)(2) of section 1514.02 of the Revised Code, or an order of the chief.

Sec. 1514.65. An underground minerals mining operator shall do all of the following:

(A) Prior to mining under a public street, road, or highway, comply with division (B) of section 1563.11 of the Revised Code;

(B) Ensure that the use of explosives for the production of underground minerals is in compliance with the requirements of this chapter.

(C) Ensure that the detonation of explosives is conducted in such a manner so as to prevent damage to adjoining property and injury to persons and is in compliance with the rules adopted under section 1514.61 of the Revised Code.

(D) Provide and maintain financial assurance for the performance and closure required under sections 1514.60 to 1514.70 of the Revised Code and rules adopted under section 1514.61 of the Revised Code in the amount of one million dollars.

Sec. 1514.66. (A) In the event of a complaint of

subsidence, the operator shall immediately investigate the complaint and provide the chief with the results of the investigation.

(B) If the chief receives a subsidence complaint regarding an underground minerals mining operation, the chief shall notify the operator. The operator shall immediately conduct an investigation and provide the chief with the results of the investigation.

Sec. 1514.67. (A) At the time of the completion of the mine entry, the operator of the underground minerals mine shall cause a map to be made of the underground workings of the mine and provide the chief of the division of mineral resources management with such map. The map shall be consistent with federal requirements governing underground minerals mining.

(B) The underground minerals mine operator shall have a survey made whenever the workings of the mine have extended four hundred feet in any direction from the point shown on the map by the last survey of such mine, but not more often than once every twelve months or whenever the mine is to be shut down.

(C) Surveys made under this section shall be accurately plotted on the original map of the mine.

(D) The underground minerals mine operator shall ensure that a copy of the current map with up-to-date survey plots is:

(1) Kept at the mine property;

(2) Filed with the chief.

Sec. 1514.68. (A) Within thirty days after each anniversary date of issuance of an underground minerals mining permit, the operator shall file with the chief of the division

of mineral resources management an annual report, on a form prescribed and furnished by the chief. The report shall include all of the information required by the chief to be included in it under rules adopted under section 1514.61 of the Revised Code. Such information shall address the one-year period preceding the anniversary date.

(B) The chief may require each annual report to be accompanied by a filing fee in the amount prescribed by the chief in rules adopted under section 1514.61 of the Revised Code.

(C) Within thirty days after the completion of the underground minerals mining operation, the operator shall submit a final report containing the same information required in an annual report, but covering the time from the last annual report to the completion of the operation.

Sec. 1514.69. At least twelve months prior to the completion of an underground minerals mining operation, the underground minerals mine operator shall notify the chief of the division of mineral resources management that the operator intends to cease mining. The operator also shall notify the chief as to the steps the operator intends to take to ensure the protection of public safety upon closure.

Sec. 1514.70. Each operator shall carry out on a continuing basis a program to improve the roof control system of each underground minerals mine and the means and measures to accomplish the system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs.

Each operator shall adopt a roof control plan and revisions thereof suitable to the roof conditions and mining system of each underground minerals mine in a manner determined by the chief of the division of mineral resources management. The plan and any revisions thereof is subject to the chief's approval.

The plan shall show the type of support and spacing approved by the chief. The chief shall review the plan periodically, at least every six months, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person may proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan and the absence of such support will not pose a hazard to the miners. A copy of the plan shall be furnished to the chief or the chief's authorized representative and shall be available to the miners and their representatives.

No person shall refuse or neglect to comply with this section.

Sec. 1514.71. (A) The chief of the division of mineral resources management shall terminate an underground minerals mining permit issued under this chapter upon the application of the operator if all of the following occur:

(1) The operator submits a final map and report, and the chief determines that such final map and report are accurate;

(2) All surface areas have been reclaimed;

(3) The chief determines that measures in the closure plan have been completed.

(B) Upon termination, the chief shall release any

requirement for financial assurance set forth in division (D) of section 1514.65 of the Revised Code.

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of section 1514.10 or division (A) of section 1514.64 of the Revised Code may be fined not more than five thousand dollars plus not more than one thousand dollars per acre of land affected, and is responsible for achieving reclamation of the land as required pursuant to this chapter.

(B) Whoever violates division (B) of section 1514.10 or division (B) of section 1514.64 of the Revised Code may be fined not more than one thousand dollars per acre of land affected that is not under permit, and is responsible for achieving reclamation of the land as required pursuant to this chapter.

(C) Whoever violates division (C) of section 1514.10 or division (C) of section 1514.64 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars, or imprisoned not more than six months, or both.

(D) Whoever violates division (D), (E), (F), or (G) of section 1514.10 or division (D) or (E) of section 1514.64 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars for a first offense. For each subsequent offense, on one or more permits held by such persons, such person may be fined not less than two hundred nor more than five thousand dollars, or imprisoned not more than six months, or both. The permit of any person convicted of a third offense may be revoked by the court at the time of that conviction, and the court at that time may further order that no permit or amendment to a permit may be issued to that person under this chapter for a period of five years from the date of the conviction. Nothing contained in this section shall be construed

to limit or affect the authority of the chief of the division of mineral resources management granted by this chapter.

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

Sec. 1563.11. (A) Unless a permit has been issued by the director of transportation, or the board of county commissioners, or the board of township trustees, or such other public authority that is charged by law with the maintenance of a public road, and the approval of the chief of the division of mineral resources management has been obtained, no person, firm, or corporation, engaged in mining or quarrying any mineral, coal, stone, or clay, shall:

(1) Extend any part of an open pit excavation closer than fifty feet of horizontal distance to any part of a public road;

(2) Deposit mine refuse or removed overburden:

(a) Closer to a public road than a line parallel to the boundary line of such road and fifty feet of horizontal distance away from such road and at the same elevation as the elevation of the crown of such road;

(b) Higher than a line beginning at a point fifty feet of horizontal distance away from such road and at the same elevation as the elevation of the crown of such road, and extending from such beginning point upward and away from such road at an angle of forty degrees from the horizontal plane.

Any person, firm, or corporation desiring such a permit shall apply in writing therefor to the proper public authority, and shall describe in such application the excavating or depositing of mine refuse or removed overburden that it will do

and for which it requests a permit. The applicant shall also furnish such public authority with such additional data and information concerning such work as such public authority may request and that shall be relevant, in making the determination that such public authority is required to make as to the amount of bond or other security the applicant shall be required to deposit before such a permit is issued to the applicant.

Upon receipt of such an application such public authority shall promptly consider what damage, if any, may be done to such public highway by the excavating or depositing of mine refuse or removed overburden for which the permit is requested, and estimate the reasonable cost of repairing such damage, if any should occur, and fix the amount of such estimate of cost as the amount of bond or other security that the applicant shall deposit with such public authority upon issuance of the permit requested, to ensure payment of the cost of repairing any such damage that might occur. Such public authority shall promptly notify the applicant of the amount of bond or other security it has so fixed.

Upon approval of the chief and deposit with the public authority of a surety bond signed by the applicant as principal, and by a surety company authorized to transact business in this state as surety, or of cash or other security satisfactory to such public authority, in the amount fixed by such authority, and conditioned upon the payment to such public authority by applicant of the cost of repairing any damage to such public road occurring as a result of the excavating or depositing of mine refuse or removed overburden for which the permit was issued, the public authority shall issue to the applicant the permit for which the applicant applied.

If, at the end of three years after such excavation or deposit of mine refuse or removed overburden is made, the licensee shall have paid or caused to be paid all cost of repairing any damage to such public road occurring within such time as a result of such excavating or depositing for which such permit was issued, or, if within such period of time no such damage to such shall have occurred, the bond or cash or other security deposited with the public authority upon the issuance of such permit, shall be released and returned to such applicant.

(B) Any person, firm, or corporation owning any land containing ~~mineral~~minerals, including underground minerals as defined in section 1514.60 of the Revised Code, coal, stone, or clay, and over any portion of which any state, county, or township road or public highway passes, may drill, excavate, mine, or quarry through or under such road. Before the work is commenced, such person, firm, or corporation shall execute and deliver to the director of transportation in case of state roads, to the board of county commissioners in case of county roads, or to the board of township trustees in case of township roads, a bond, with good and sufficient surety in such amount as shall be considered by the director, the board of county commissioners, or the board of township trustees, sufficient to cover any damages that may accrue by excavating, mining, or quarrying through or under any such road, the same to be approved by such director, board of county commissioners, or board of township trustees. Such bond shall be conditioned that while crossing over or mining or quarrying under any such road, a safe and unobstructed passageway or road shall be kept open by such person, firm, or corporation for the public use, and as soon as practicable, such road shall be fully restored to its

original safe and passable condition. When such crossing is made by excavation at a depth of more than thirty feet below the surface of such road, the person, firm, or corporation making the same shall be liable to the director, board of county commissioners, or board of township trustees for any damage that may accrue by such excavation, and shall be held to fully repair any such damage and to restore such road to its original safe and passable condition. The right to mine or quarry across or under public highways as provided in this section, shall accrue to the owner, lessee, or agent of the land upon or through which such highway passes.

As used in this section, "road" or "highway" means the entire right of way as well as the improved portion thereof, and includes bridges, viaducts, grade separations, appurtenances, and approaches on or to such road or highway.

Section 2. That existing sections 1514.01, 1514.02, 1514.021, 1514.022, 1514.023, 1514.024, 1514.03, 1514.04, 1514.05, 1514.07, 1514.071, 1514.08, 1514.09, 1514.11, 1514.13, 1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 1514.46, 1514.50, 1514.99, and 1563.11 of the Revised Code are hereby repealed.

Section 3. The Division of Mineral Resources Management shall conduct a study to determine a centralized location for conducting safety education and training for activities regulated under Chapter 1514. of the Revised Code. Not later than one year after the effective date of this section, the Division shall send a report of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.