



## Ohio Administrative Code

### Rule 1501:13-1-04 Exemption for coal extraction incidental to government financed highway or other construction.

Effective: June 28, 2018

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(A) Definitions. As used in this rule:

(1) "Extraction of coal as an incidental part" means the extraction of coal which is necessary to enable the construction to be accomplished. For purposes of this rule, only that coal extracted from within the right-of-way and borrow areas, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of Chapter 1513. of the Revised Code.

(2) "Government financing agency" means a federal, state, county, municipal, or local unit of government, or a department, bureau, agency or office of the unit which, directly or through another unit of government, finances construction.

(3) "Government-financed construction" means construction funded fifty per cent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent or in-kind payments. Funding at less than fifty per cent may qualify if the project is eligible under section 1513.37 of the Revised Code and the construction is undertaken as an approved reclamation project under section 1513.30 or 1513.37 of the Revised Code.

(B) Any person conducting coal extraction as an incidental part of government-financed construction is responsible for possessing, on the site of the construction operation, the documentation required by paragraphs (E) to (E)(4) of this rule.

(C) Requirements for approved reclamation projects under sections 1513.30 and 1513.37 of the Revised Code with less than fifty per cent government financing.



(1) Determinations. The division of mineral resources management shall determine:

(a) The likelihood of the coal being mined under a permit issued under section 1513.07 of the Revised Code considering the coal reserves from existing mine maps or other sources, the existing environmental conditions, all prior mining activity on or adjacent to the site, current and historic coal production in the area, and any known or anticipated interest in mining the site;

(b) The likelihood that nearby or adjacent mining activities might create new environmental problems or adversely affect existing environmental problems at the site; and

(c) The likelihood that reclamation activities at the site might adversely affect nearby or adjacent mining activities.

(2) Concurrence. The regulatory program coordinator and the abandoned mine lands program coordinator must concur on determinations of the limits on any coal refuse, coal waste, or other coal deposits which can be extracted under this exemption and in the delineation of the boundaries of the AML project.

(3) Documentation. The AML case file must include the determinations made under paragraphs (C)(1) and (C)(2) of this rule, the information taken into account in making these determinations, and the names of the parties making the determinations.

(4) Special requirements. For each exempt project the division must:

(a) Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrologic balance;

(b) Ensure that the reclamation project is conducted in accordance with the provisions of the AML program and procedures as approved by the U.S. secretary of interior under 30 C.F.R. Chapter VII, Subchapter R;

(c) Develop site-specific reclamation requirements, including a contract performance bond, when



appropriate, in accordance with approved AML procedures; and

(d) Require the contractor conducting the reclamation to provide, prior to the time reclamation begins, applicable documents that clearly authorize the extraction of coal and payment of royalties.

(5) Limitations. If the reclamation contractor extracts coal beyond the limits of the incidental coal specified in paragraph (C)(2) of this rule, the contractor must obtain a permit under section 1513.07 of the Revised Code for such coal.

(D) Applicability.

(1) Coal extraction which is an incidental part of government-financed construction is exempt from Chapter 1513. of the Revised Code.

(2) Any person who conducts or intends to conduct coal extraction which does not satisfy paragraph (D)(1) of this rule shall not proceed until a permit has been obtained from the chief of the division of mineral resources management.

(E) Any person extracting coal incident to government-financed highway or other construction shall maintain, on the site of the extraction operation and available for inspection, documents which show:

(1) A description of the construction project;

(2) The exact location of the construction, right-of-way or the boundaries of the area which will be directly affected by the construction;

(3) The government agency which is providing the financing and the kind and amount of public financing, including the percentage of the entire construction costs represented by the government financing; and

(4) Acres from which coal will be removed.



AUTHENTICATED,  
OHIO LEGISLATIVE SERVICE  
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(F) For dates of federal rules and federal laws referenced in this rule, see rule 1501:13-1-14 of the Administrative Code.