



## Ohio Administrative Code

### Rule 1501:13-9-11 Protection of fish, wildlife, and related environmental values.

Effective: January 17, 2016

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(A) Any person conducting coal mining operations shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of such resources where practicable.

(1) No coal mining operation shall be conducted which:

(a) Is likely to jeopardize the continued existence of endangered or threatened species listed by the United States secretary of the interior;

(b) Is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.); or

(c) Will result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs.

(2) A person who conducts coal mining operations shall promptly report to the chief the presence in the permit area of any critical habitat of a threatened or endangered species listed by the United States secretary of the interior, any plant or animal listed by the state as threatened or endangered, or any bald or golden eagle nest, of which that person becomes aware and which was not previously reported to the chief by that person. Upon notification the chief shall consult with appropriate state and federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operator may proceed.

(3) Nothing in these rules shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq., or the Bald and Golden Eagle Protection Act, as amended, 16 U.S.C. 668 et seq.

(C) Each person who conducts coal mining operations shall:



- (1) Avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes;
- (2) Avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife;
- (3) Afford protection to aquatic communities by avoiding stream channels as required by paragraph (E) of rule 1501:13-9-04 of the Administrative Code or restoring stream channels as required in paragraph (F) of rule 1501:13-9-04 of the Administrative Code;
- (4) To the extent possible prevent, control, and suppress range, forest, and coal fires which are not approved by the chief as part of a management plan;
- (5) If fish and wildlife habitat is to be a postmining land use, the operator shall in addition to the requirements of rule 1501:13-9-17 of the Administrative Code:
  - (a) Select plant species to be used on reclaimed areas, based on the following criteria:
    - (i) Their proven nutritional value for fish and wildlife;
    - (ii) Their uses as cover for fish and wildlife; and
    - (iii) Their ability to support and enhance fish and wildlife habitat after release of performance security; and
  - (b) Distribute plant groupings to maximize benefit to fish and wildlife. Plants should be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits for fish and wildlife;
- (6) Where cropland, grazingland, or pastureland is to be the postmining land use, and where appropriate for wildlife and crop management practices, intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals. Wetlands shall be preserved or created rather than drained



or otherwise permanently abolished. When practical and consistent with these rules, ponds shall be designed and built as permanent ponds in order to enhance fish and wildlife habitat;

(7) Where undeveloped land use or fish and wildlife habitat is to be the postmining land use, and as appropriate for wildlife and other management practices, preserve or create rather than drain or permanently abolish wetlands. When practical and consistent with these rules, ponds shall be designed and built as permanent ponds in order to enhance fish and wildlife habitat; and

(8) Where the primary land use is to be residential, public service, or industrial land use, intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals, unless such greenbelts are inconsistent with the approved postmining land use.

(D) Each operator shall, to the extent possible using the best technology currently available:

(1) Ensure that electric powerlines and other transmission facilities used for, and incidental to, mining operations on the permit area are designed and constructed to minimize electrocution hazards to raptors unless the chief determines such requirements are unnecessary;

(2) Locate and operate haul and access roads so as to minimize impacts to important fish and wildlife species or other species protected by state or federal law; and

(3) Fence, cover or use other appropriate methods to exclude wildlife from ponds that contain hazardous concentrations of toxic-forming materials.

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