



Ohio Administrative Code Rule 1501:13-12-03 Subsidence control.

Effective: February 14, 2022

(A) The permittee shall either:

(1) Adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or

(2) Adopt mining technology which provides for planned subsidence in a predictable and controlled manner. Nothing in this part shall be construed to prohibit the standard method of room-and-pillar mining.

(B) The permittee and the operator shall comply with all provisions of the approved subsidence-control plan prepared pursuant to paragraph (M) of rule 1501:13-4-14 of the Administrative Code.

(C) The chief or his or her authorized representative shall notify the permittee of any material damage to structures or surface land, or of any failure to maintain the value or reasonably foreseeable use of surface lands. Except where such damage or failure may be a part of a set of circumstances which constitute a violation (for example, material damage which results from a failure to adopt measures consistent with known technology which prevent subsidence from causing material damage), notification shall be by letter, electronic mail or inspection report and shall not be deemed a notice of violation. Such notification shall not be subject to formal review by the chief, the reclamation commission, or the courts unless and until it serves as the basis for issuance of a notice of violation or chief's order.

(D) The underground mine permittee shall correct any material damage caused to surface lands, to the extent technologically and economically feasible, by restoring the land surface to a condition capable of maintaining the value and reasonably foreseeable uses which it was capable of supporting before subsidence.



(E) Any agreement between the permittee and a surface owner which addresses the repair of or the compensation for damage to the surface owner's structures shall take precedence over the provisions of this rule and the provisions of this rule shall not apply to any damage to such structures.

(F) If the permittee and the owner of structures have no agreement for repair and compensation, the permittee shall promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling and structures related thereto that existed at the time of mining. If the repair option is selected, the permittee shall fully rehabilitate, restore or replace the damaged structure. If compensation is selected, the permittee shall compensate the owner of the damaged structure for the full amount of the diminution in value resulting from the subsidence-related damage. The permittee may provide compensation by the purchase, prior to mining, of a non-cancelable premium-prepaid insurance policy for the structures in addition to that required by rule 1501:13-7-07 of the Administrative Code. Structures or facilities not listed in paragraphs (J)(1) to (J)(3) of this rule shall be exempted from the requirements of this paragraph if the permittee or operator submits to the chief copies of documents showing clearly and convincingly that, and the chief determines that, the owner of the structure or facility is the permittee or operator.

(G) If and when subsidence occurs which causes material damage to structures listed in paragraphs (J)(1) to (J)(3) of this rule, or to surface lands, or reduces the foreseeable use or value of surface lands, the underground permittee shall submit to the chief within thirty days after the damage occurs:

(1) Site specific plans for the repair or mitigation of the damage, including a time schedule for performance of the remedial actions;

(2) A request for more time to prepare such plans; or

(3) Written or electronic notification that the permittee feels repair or restoration measures are not technologically feasible. If repair or restoration measures are not desired by the owner of a structure or if repair or restoration measures are not technologically feasible, describe other mitigatory measures to be taken as provided for in this rule.



(H) If and when subsidence causes material damage to any non-commercial building or occupied residential dwelling and structures related thereto that existed at the time of mining, and if the permittee has not reached an agreement with the owner of the structure:

(1) The underground permittee or operator shall submit to the chief within thirty days after receipt of the notice provided under paragraph (C) of this rule:

(a) Site specific plans for the repair of or compensation for the damage, including a time schedule for repair or compensation; or

(b) A request for more time to prepare such plans;

(2) The permittee or operator shall fully perform the obligations specified in any plan submitted in accordance with paragraph (H)(1) of this rule within the time period stated in the plan, provided that the surface owner does not prevent the permittee or operator from performing his or her obligations under the plan; and

(3) If the surface owner prevents the implementation of the permittee's or operator's plan for repair or compensation, then the chief shall take no further action and the surface owner may pursue whatever private rights of action may be available to the surface owner.

(I) All remedial, restoration, and mitigatory actions required under this rule shall be performed as soon as practicable.

(J) Unless the subsidence control plan demonstrates that subsidence will not cause material damage or reduce the reasonably foreseeable use of such features or facilities, underground mining activities shall not be conducted beneath or adjacent to:

(1) Public buildings and facilities;

(2) Churches, schools, and hospitals; or



(3) Impoundments with a storage capacity of twenty acre feet or more, or bodies of water with a volume of twenty acre feet or more.

(K) If the chief determines that it is necessary in order to minimize the potential for material damage to the features or facilities described in paragraphs (J)(1) to (J)(3) of this rule or to any aquifer or body of water that serves as a significant water source for any public water supply system and to protect the public health and safety, he or she may limit the percentage of coal extraction under or adjacent to such features or facilities.

(L) If subsidence causes or does material damage to any of the features or facilities covered by paragraphs (J)(1) to (J)(3) of this rule, the chief may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of material damage to such features or facilities.

(M) The chief shall suspend underground coal mining operations under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.

(N) Within a schedule approved by the chief, the permittee shall submit a detailed plan of the underground workings. The detailed plan shall include maps and descriptions, as appropriate, of significant features of the underground mine, including pillar and entry size, configuration, and approximate locations; extraction ratios; measures taken to prevent or minimize subsidence and related damage; areas of full extraction; and other information required by the chief. Upon request of the permittee, information submitted with the detailed plan may be held as confidential. As a means of complying with the requirements of this paragraph, the permittee may submit a copy of the mine map submitted to the division of mineral resources management pursuant to section 1563.04 of the Revised Code supplemented with any items needed to meet all the requirements of this paragraph.

(O) Surface owner notification. The permittee shall mail or send by another method able to track receipt of delivery a written notice to owners and occupants of surface property or structures, including wells and buried oil, gas, or utility lines, of the intention of the permittee to mine under



such property or structures. Notification shall be mailed at least six months before the mining is to occur or, if a lesser period is approved by the chief, may be mailed less than six months before mining is to occur. The notice shall contain:

- (1) Identification of specific areas in which mining will take place;
- (2) Approximate dates that specific areas will be undermined;
- (3) The location or locations where the subsidence control plan of the permittee may be examined;
and
- (4) A statement of the permittee's intent to conduct a pre-subsidence survey of all structures, buildings, features and facilities protected under this rule to determine their condition prior to mining, including information on when the survey will be conducted and the area the survey will include. The permittee shall prepare a written report of the survey and provide a copy to the owner or resident of the property which is the subject of the survey and retain a copy for inspection by the chief.