



Ohio Administrative Code

Rule 1501:14-2-03 Criteria, standards and procedures governing annual safety performance evaluations of surface mining operations that are inspected by MSHA.

Effective: May 30, 2019

This rule applies to surface mining operations that are inspected by MSHA.

(A) The chief annually shall conduct, in accordance with these rules, a safety performance evaluation of all surface mining operations in the state that are inspected by MSHA.

(B) Collection of violation data. At the beginning of each state fiscal year, the chief shall obtain from the MSHA mine data retrieval system the violations per inspection day ("VPID") calculation for the preceding fifteen months for each surface mining operation permitted under Chapter 1514. of the Revised Code.

(C) Procedures governing safety performance evaluations. If a surface mining operation has a VPID calculation of three or more, the chief shall, pursuant to division (B) of section 1514.41 of the Revised Code, identify the surface mining operation as having three or more violations per day. A surface mining operation identified by the chief as having three or more violations per day shall receive a minimum of two inspections conducted in accordance with division (B) of section 1514.41 and section 1514.43 of the Revised Code for one year following the identification.

(D) Notification of determination to conduct inspections due to the results of a safety performance evaluation. If a surface mining operation is identified under paragraph (C) of this rule as having three or more violations per day, the chief shall provide written notification to the operator of the operation and, if applicable, the authorized representative of the miners of the operation, that the operation will be inspected pursuant to division (B) of section 1514.41 and section 1514.43 of the Revised Code and as determined by this rule. The notice shall contain:

(1) A citation of the relevant provision(s) of the Revised Code and the Administrative Code that require the inspections;



- (2) A statement that a minimum of two inspections of the operation will be conducted for one year following the identification;
- (3) A requirement that the operator provide to the chief within thirty days, in writing, the name of the organization identified as the authorized representative of the miners for the operation, if applicable. The operator may provide this name by U.S. mail, facsimile, or electronic mail to the attention of: manager, mine safety program, Columbus office, division of mineral resources management; and
- (4) The procedure, pursuant to paragraph (E) of this rule, whereby the operator may request that the chief reconsider the decision that the surface mining operation had three or more violations per day.
- (E) Reconsideration by the chief.
- (1) Within thirty days of receipt of the notification required by paragraph (D) of this rule, a surface mining operator may submit a written request to the chief asking him or her to reconsider the decision that the operation had three or more violations per day.
- (2) Within fourteen days of the receipt of an operator's request for reconsideration under paragraph (E)(1) of this rule, the chief shall provide the operator and, if applicable, the authorized representative of the miners at the surface mining operation with written notice of his or her decision.
- (3) Within thirty days after receipt of the chief's decision upon reconsideration under paragraph (E)(2) of this rule, the operator may appeal the chief's decision to the reclamation commission in accordance with section 1514.09 of the Revised Code. An operator shall not file an appeal with the reclamation commission of the chief's decision that a surface mining operation had three or more violations per day without first requesting reconsideration as provided by paragraph (E)(1) of this rule. The filing of a notice of appeal to the reclamation commission does not operate as a stay of any order, determination, or decision of the chief.