



Ohio Administrative Code

Rule 1501:14-2-10 Mine safety inspections of surface mining operations that are not inspected by MSHA.

Effective: September 17, 2010

This rule applies to surface mining operations that are not inspected by MSHA.

(1) If a surface mining operation is not inspected by MSHA, the chief shall conduct mine safety inspections of the operation as follows:

(a) A minimum of two inspections annually; or

(b) If a fatality of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, as determined by the chief under division (C) of section 1514.41 of the Revised Code and paragraphs (B) and (C) of rule 1501:14-2-09 of the Administrative Code, a minimum of one inspection every three months for two years following the fatality; or

(c) If a life-threatening injury of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, as determined by the chief under division (D) of section 1514.41 of the Revised Code and paragraphs (B) and (C) of rule 1501:14-2-09 of the Administrative Code, a minimum of one inspection every three months for one year following the life-threatening injury.

(2) The chief shall conduct mine safety inspections to enforce the safety standards established and incorporated by reference in Chapter 1514. of the Revised Code and these rules and to review for compliance the mine safety training plan required under 30 C.F.R. part 46.

(3) When the chief conducts a mine safety inspection pursuant to paragraph (A)(1) of this rule, the operator shall, during the inspection, provide the chief, in writing, the name of the organization identified as the authorized representative of the miners for the operation, if applicable.

(1) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, if, during a



mine safety inspection, the chief finds a violation of a safety standard, the chief shall, in writing, require the operator to comply with the standard that is being violated within a reasonable period of time.

(2) If the chief finds a violation of a safety standard, the chief shall return to the surface mining operation after a reasonable period of time to determine if the operator has complied with the standard that was being violated.

(3) If the chief determines, under paragraph (B)(2) of this rule, that the operator has failed to comply with the standard that was being violated:

(a) The chief shall take appropriate action in the form of an order of the chief to obtain compliance if necessary; and

(b) The chief may, at his or her discretion and based on the severity of the violation or other safety factors, conduct additional mine safety inspections of the entire surface mining operation pursuant to this rule.

(C) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, after completion of a mine safety inspection of a surface mining operation, the chief shall prepare a report that:

(1) Describes the general conditions of the surface mining operation;

(2) Lists any hazardous conditions at the operation;

(3) Lists any violations of the safety standards established or incorporated by reference in these rules; and

(4) Describes the nature and extent of any hazardous condition or violation found, the corresponding remedy for each hazardous condition or violation, and a reasonable period of time to remedy the hazardous condition or to comply with the safety standard that is being violated.



(D) The chief shall provide two copies of the report prepared under paragraph (C) of this rule to the operator. The operator shall post one copy of the report at the operation for review by the employees of the operation.

(1) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or 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 paragraph (D) of this rule, the operator may submit a written request to the chief for a meeting with the chief to review the findings contained in the report.

(2) 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 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 of the chief for purposes of Chapter 1514. of the Revised Code and these rules.

(F) An operator shall not appeal the contents of a report prepared under paragraph (C) of this rule to the reclamation commission without first submitting a written request for a review by the chief as provided in paragraph (E)(1) of this rule. If, upon review of the findings in the report, the chief makes a determination that affirms the findings in the report, then the operator may appeal this determination to the reclamation commission in accordance with section 1514.09 of the Revised Code. 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.

(1) If, during a mine safety inspection conducted under section 1514.41 of the Revised Code or this rule or during a safety audit conducted under section 1514.42 of the Revised Code, the chief finds a condition or practice at an 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:

(a) Safeguard the employees;



(b) Notify the operator of the condition or practice; and

(c) Require the operator to abate the condition or practice within a reasonable period of time.

(2) In all situations under paragraph (G)(1) of this rule, 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.

(1) The chief shall complete a report that describes:

(a) The condition or practice found under paragraph (G) of this rule;

(b) The action taken to abate the condition or practice, if applicable pursuant to paragraph (G)(1)(c) of this rule, or to eliminate the condition or practice, if applicable pursuant to paragraph (G)(2) of this rule; and

(c) The period of time that was given to abate or eliminate the condition or practice, as applicable.

(2) The chief shall provide two copies of the report to the operator. The operator shall post one copy of the report at the operation for review by the employees of the operation.

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