



## Ohio Revised Code

### Section 1514.02 Surface or in-stream mining permit - application contents.

Effective: September 10, 2012

Legislation: Senate Bill 315 - 129th General Assembly

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(A) After the dates the chief of the division of mineral resources management prescribes by rule pursuant to section 1514.08 of the Revised Code, but not later than July 1, 1977, nor earlier than July 1, 1975, no operator shall engage in surface mining or conduct a surface mining operation without a surface mining permit issued by the chief.

No person shall engage in in-stream mining or conduct an in-stream mining operation without an in-stream mining permit issued by the chief. However, a person who, on March 15, 2002, holds a valid permit to conduct in-stream mining that is issued under section 10 of the "Rivers and Harbors Appropriation Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended, shall not be required to obtain an in-stream mining permit from the chief under this section until the existing permit expires.

An application for a surface or in-stream mining permit shall be upon the form that the chief prescribes and provides and shall contain all of the following:

(1) The name and address of the applicant, of all partners if the applicant is a partnership, or of all officers and directors if the applicant is a corporation, and any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant;

(2) A list of the minerals and coal, if any coal, sought to be extracted, an estimate of the annual production rates for each mineral and coal, and a description of the land upon which the applicant proposes to engage in a surface or in-stream mining operation, which description shall set forth the names of the counties, townships, and municipal corporations, if any, in which the land is located; the location of its boundaries; and a description of the land of sufficient certainty that it may be located and distinguished from other lands;

(3) The name of each county, township, or municipal corporation, if any, that has in effect a zoning resolution or ordinance that would affect the proposed surface or in-stream mining operation or, if



no such zoning resolution or ordinance is in effect, a statement attesting to that fact. The application also shall contain an explanation of how the applicant intends to comply with any applicable provisions of a zoning resolution or ordinance.

(4) An estimate of the number of acres of land that will comprise the total area of land to be affected and an estimate of the number of acres of land to be affected during the first year of operation under the permit;

(5) The name and address of the owner of surface rights in the land upon which the applicant proposes to engage in surface or in-stream mining;

(6) A copy of the deed, lease, or other instrument that authorizes entry upon the land by the applicant or the applicant's agents if surface rights in the land are not owned by the applicant;

(7) A statement of whether any surface or in-stream mining permits or coal mining and reclamation permits are now held by the applicant in this state and, if so, the numbers of the permits;

(8) A statement of whether the applicant, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has ever had a surface or in-stream mining permit or coal mining and reclamation permit issued by this or any other state suspended or revoked or has ever forfeited a surface or in-stream mining or coal mining and reclamation bond or cash, an irrevocable letter of credit, or a security deposited in lieu of a bond;

(9) A report of the results of test borings that the operator has conducted on the area or otherwise has readily available, including, to the extent that the information is readily available to the operator, the nature and depth of overburden and material underlying each mineral or coal deposit, and the thickness and extent of each mineral or coal deposit. In the case of an application for an in-stream mining permit, the report additionally shall include sufficient information to show the approximate depth to bedrock. All information relating to test boring results submitted to the chief pursuant to this section shall be kept confidential and not made a matter of public record, except that the information may be disclosed by the chief in any legal action in which the truthfulness of



the information is material.

(10) A complete plan for surface or in-stream mining and reclamation of the area to be affected, which shall include a statement of the intended future uses of the area and show the approximate sequence in which mining and reclamation measures are to occur, the approximate intervals following mining during which the reclamation of all various parts of the area affected will be completed, and the measures the operator will perform to prevent damage to adjoining property and to achieve all of the following general performance standards for mining and reclamation:

(a) Prepare the site adequately for its intended future uses upon completion of mining;

(b) Where a plan of zoning or other comprehensive plan has been adopted that governs land uses or the construction of public improvements and utilities for an area that includes the area sought to be mined, ensure that future land uses within the site will not conflict with the plan. On and after March 15, 2002, division (A)(10)(b) of this section does not apply to any surface or in-stream mining permit or applications for a surface or in-stream mining permit, any renewal of an existing surface or in-stream mining permit or application for a renewal of an existing surface or in-stream mining permit, any amendment or application for an amendment to an existing surface or in-stream mining permit, or any modification or application for a modification of a mining and reclamation plan of an existing surface or in-stream mining permit unless the application for such a permit, renewal, amendment, or modification is a resubmission, revision, or reconsideration of an application that was pending before the chief or was first approved prior to March 15, 2002.

(c) Grade, contour, or terrace final slopes, wherever needed, sufficient to achieve soil stability and control landslides, erosion, and sedimentation. Highwalls will be permitted if they are compatible with the future uses specified in the plan and measures will be taken to ensure public safety. Where ponds, impoundments, or other resulting bodies of water are intended for recreational use, establish banks and slopes that will ensure safe access to those bodies of water. Where such bodies of water are not intended for recreation, include measures to ensure public safety, but access need not be provided.

(d) Resoil the area of land affected, wherever needed, with topsoil or suitable subsoil, fertilizer, lime, or soil amendments, as appropriate, in sufficient quantity and depth to raise and maintain a



diverse growth of vegetation adequate to bind the soil and control soil erosion and sedimentation;

(e) Establish a diverse vegetative cover of grass and legumes or trees, grasses, and legumes capable of self-regeneration and plant succession wherever required by the plan;

(f) Remove or bury any metal, lumber, equipment, or other refuse resulting from mining, and remove or bury any unwanted or useless structures;

(g) Reestablish boundary, section corner, government, and other survey monuments that were removed by the operator;

(h) During mining and reclamation, ensure that contamination, resulting from mining, of underground water supplies is prevented. Upon completion of reclamation, ensure that any watercourse, lake, or pond located within the site boundaries is free of substances resulting from mining in amounts or concentrations that are harmful to persons, fish, waterfowl, or other beneficial species of aquatic life.

(i) During mining and reclamation, control drainage so as to prevent the causing of flooding, landslides, and flood hazards to adjoining lands resulting from the mining operation. Leave any ponds in such condition as to avoid their constituting a hazard to adjoining lands.

(j) During mining and reclamation, ensure that the effect of any reduction of the quantity of ground water is minimized;

(k) Ensure that mining and reclamation are carried out in the sequence and manner set forth in the plan and that reclamation measures are performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the mining of the area unless the operator makes a showing satisfactory to the chief that the future use of the area requires a longer period for completing reclamation.

(l) During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing, and resoiling that are specified in the plan. Stabilize the slopes of and plant each spoil bank to control soil erosion and sedimentation wherever substantial damage to adjoining



property might occur.

(m) During mining, promptly remove, store, or cover any coal, pyritic shale, or other acid producing materials in a manner that will minimize acid drainage and the accumulation of acid water;

(n) During mining, detonate explosives in a manner that will prevent damage to adjoining property;

(o) In the case of in-stream mining, do all of the following:

(i) Limit access to the channel of a watercourse to a single point of entry on one bank of the watercourse;

(ii) Maintain riparian vegetation to the fullest extent possible;

(iii) Upon cessation of in-stream mining, stabilize and reclaim to the pre-mined condition the banks of a watercourse affected by in-stream mining.

(11) For any applicant, except an applicant for an in-stream mining permit, who intends to extract less than ten thousand tons of minerals per year and no incidental coal, a current tax map, in triplicate and notarized, and the appropriate United States geological survey seven and one-half minute topographic map. Each copy shall bear the applicant's name and shall identify the area of land to be affected corresponding to the application.

(12) For any applicant for a surface mining permit who intends to extract ten thousand tons of minerals or more per year or who intends to extract any incidental coal irrespective of the tonnage of minerals intended to be mined, a map, in triplicate, on a scale of not more than four hundred feet to the inch, or three copies of an enlarged United States geological survey topographic map on a scale of not more than four hundred feet to the inch. Each application for an in-stream mining permit shall include such a map regardless of the tons of minerals that the applicant intends to extract.

The map shall comply with all of the following:

(a) Be prepared and certified by a professional engineer or surveyor registered under Chapter 4733.



of the Revised Code;

- (b) Identify the area of land to be affected corresponding to the application;
- (c) Show the probable limits of subjacent and adjacent deep, strip, surface, or in-stream mining operations, whether active, inactive, or mined out;
- (d) Show the boundaries of the area of land to be affected during the period of the permit and the area of land estimated to be affected during the first year of operation, and name the surface and mineral owners of record of the area and the owners of record of adjoining surface properties;
- (e) Show the names and locations of all streams, creeks, or other bodies of water, roads, railroads, utility lines, buildings, cemeteries, and oil and gas wells on the area of land to be affected and within five hundred feet of the perimeter of the area;
- (f) Show the counties, municipal corporations, townships, and sections in which the area of land to be affected is located;
- (g) Show the drainage plan on, above, below, and away from the area of land to be affected, indicating the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving or to receive this discharge;
- (h) Show the location of available test boring holes that the operator has conducted on the area of land to be affected or otherwise has readily available;
- (i) Show the date on which the map was prepared, the north direction and the quadrangle sketch, and the exact location of the operation;
- (j) Show the type, kind, location, and references of all existing boundary, section corner, government, and other survey monuments within the area to be affected and within five hundred feet of the perimeter of the area.

The certification of the maps shall read: "I, the undersigned, hereby certify that this map is correct,



and shows to the best of my knowledge and belief all of the information required by the surface or in-stream mining laws, as applicable, of the state." The certification shall be signed and attested before a notary public. The chief may reject any map as incomplete if its accuracy is not so certified and attested.

(13) A certificate of public liability insurance issued by an insurance company authorized to do business in this state or obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code covering all surface or in-stream mining operations of the applicant in this state and affording bodily injury and property damage protection in amounts not less than the following:

(a) One hundred thousand dollars for all damages because of bodily injury sustained by one person as the result of any one occurrence, and three hundred thousand dollars for all damages because of bodily injury sustained by two or more persons as the result of any one occurrence;

(b) One hundred thousand dollars for all claims arising out of damage to property as the result of any one occurrence, with an aggregate limit of three hundred thousand dollars for all property damage to which the policy applies.

(14) A sworn statement by the applicant that, during the term of any permit issued under this chapter or of any renewal of such a permit, the applicant will comply with all applicable zoning resolutions or ordinances that are in effect at the time the application is filed unless the resolutions or ordinances subsequently become invalid during the term of the permit or renewal;

(15) A copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code, if applicable;

(16) For any applicant whose operation may result in dewatering, a compilation of data in a form that is prescribed by the chief and that is suitable to conduct ground water modeling in order to establish a projected cone of depression for purposes of section 1514.13 of the Revised Code. The chief shall adopt rules as provided in section 1514.08 of the Revised Code establishing the minimum requirements and standards governing the data required under this division.

(17) A statement by the applicant certifying that the applicant has communicated with the county



engineer of the county in which the proposed surface or in-stream mining operation will be located regarding any streets and roads under the county engineer's jurisdiction that will be used by vehicles entering and leaving the proposed surface or in-stream mining operation;

(18) In the case of an application for an in-stream mining permit, and if required by the division of mineral resources management after review of an applicant's proposed in-stream mining plans, a hydraulic evaluation of the watercourse prepared by a professional engineer registered under Chapter 4733. of the Revised Code. If the hydraulic evaluation is required, it shall include, without limitation, all of the following:

(a) Soundings that depict the cross-sectional views of the channel bottom of the watercourse and water elevations for the watercourse;

(b) A profile of the channel bottom;

(c) An analysis of design flows and water surface profiles for the watercourse prior to in-stream mining and the proposed final mining condition;

(d) An analysis of the expected changes in the roughness coefficient, resistance to water flow velocity, and hydraulic gradient in the channel bottom due to the proposed mining;

(e) Any additional information that the chief requires in order to evaluate the potential impact of in-stream mining on the watercourse and to determine if any additional performance standards are required to protect the environment and property outside the limits of the operation as established in the permit.

The chief may allow an applicant to deviate from the requirements of divisions (A)(18)(a) to (d) of this section if the chief determines that such a deviation is appropriate.

(B) No permit application or amendment shall be approved by the chief if the chief finds that the reclamation described in the application will not be performed in full compliance with this chapter or that there is not reasonable cause to believe that reclamation as required by this chapter will be accomplished.





The chief shall issue an order denying an application for an operating permit or an amendment if the chief determines that the measures set forth in the plan are likely to be inadequate to prevent damage to adjoining property or to achieve one or more of the performance standards required in division (A)(10) of this section.

No permit application or amendment shall be approved if the approval would result in a violation of division (E), (F), or (G) of section 1514.10 of the Revised Code.

No permit application or amendment shall be approved to surface mine land adjacent to a public road in violation of section 1563.11 of the Revised Code.

To ensure adequate lateral support, no permit application or amendment shall be approved to engage in surface or in-stream mining on land that is closer than fifty feet of horizontal distance to any adjacent land or waters in which the operator making application does not own the surface or mineral rights unless the owners of the surface and mineral rights in and under the adjacent land or waters consent in writing to surface or in-stream mining closer than fifty feet of horizontal distance. The consent, or a certified copy thereof, shall be attached to the application as a part of the permanent record of the application for a surface or in-stream mining permit.

The chief shall issue an order granting a permit upon the chief's approval of an application, as required by this section, filing of the performance bond required by section 1514.04 of the Revised Code, payment of an acreage fee in the amount of seventy-five dollars multiplied by the number of acres estimated in the application that will comprise the area of land to be affected within the first year of operation under the permit, and payment of a permit fee. The amount of the permit fee for a surface mining permit shall be five hundred dollars, and the amount of the permit fee for an in-stream mining permit shall be two hundred fifty dollars.

The chief may issue an order denying a permit if the chief finds that the applicant, any partner if the applicant is a partnership, any officer or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has substantially or materially failed to comply or continues to fail to comply with this chapter, which failure may consist of one or more violations



thereof, a rule adopted thereunder, or an order of the chief or failure to perform reclamation as required by this chapter. The chief may deny or revoke the permit of any person who so violates or fails to comply or who purposely misrepresents or omits any material fact in the application for the permit or an amendment to a permit.

If the chief denies the permit, the chief shall state the reasons for denial in the order denying the permit.

Each permit shall be issued upon condition that the operator will comply with this chapter and perform the measures set forth in the operator's plan of mining and reclamation in a timely manner. The chief, mineral resources inspectors, or other authorized representatives of the chief may enter upon the premises of the operator at reasonable times for the purposes of determining whether or not there is compliance with this chapter.

(C) If the chief approves an application for a surface mining permit, the order granting the permit shall authorize the person to whom the permit is issued to engage as the operator of a surface mining operation upon the land described in the permit during a period that shall expire fifteen years after the date of issuance of the permit, or upon the date when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.

If the chief approves an application for an in-stream mining permit, the order granting the permit shall authorize the person to whom the permit is issued to engage as the operator of an in-stream mining operation on the land described in the permit during a period that shall expire five years after the date of issuance of the permit, or on the date when the chief, after inspection, orders the release of any remaining bond, cash, irrevocable letters of credit, or certificates of deposit that were deposited to ensure satisfactory performance of the reclamation measures required under this chapter, whichever occurs earlier.

(D) Before an operator engages in a surface or in-stream mining operation on land not described in the operator's permit, but that is contiguous to the land described in the operator's permit, the operator shall file with the chief an application for an amendment to the operator's permit. Before approving an amendment, the chief shall require the information, maps, fees, and amount, except as



otherwise provided by rule, of the performance bond as required for an original application under this section and shall apply the same prohibitions and restrictions applicable to land described in an original application for a permit. An applicant for a significant amendment to a permit, as "significant" is defined by rule, shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code. If the chief disapproves the amendment, the chief shall state the reasons for disapproval in the order disapproving the amendment. Upon the approval of an amendment by the chief, the operator shall be authorized to engage in surface mining on the land or in-stream mining in the watercourse described in the operator's original permit plus the land or area of the watercourse described in the amendment until the date when the permit expires, or when the chief, after inspection, orders the release of any remaining performance bond deposited to assure satisfactory performance of the reclamation measures required pursuant to this chapter, whichever occurs earlier.

(E) An operator, at any time and upon application therefor and approval by the chief, may amend the plan of mining and reclamation filed with the application for a permit in order to change the reclamation measures to be performed, modify the interval after mining within which reclamation measures will be performed, change the sequence in which mining or reclamation will occur at specific locations within the area affected, mine acreage previously mined or reclaimed, or for any other purpose, provided that the plan, as amended, includes measures that the chief determines will be adequate to prevent damage to adjoining property and to achieve the performance standards set forth in division (A)(10) of this section. An application for a significant amendment to a plan, as "significant" is defined by rule, shall include a copy of the advertisement that the applicant is required to have published in accordance with section 1514.022 of the Revised Code.

The chief may propose one or more amendments to the plan in writing within ninety days after the fifth anniversary of the date of issuance of a surface mining permit or within ninety days after the first anniversary of the date of issuance of an in-stream mining permit. The chief's proposal may be made upon a finding of any of the following conditions after a complete review of the plan and inspection of the area of land affected, and the plan shall be so amended upon written concurrence in the findings and approval of the amendments by the operator:

(1) An alternate measure, in lieu of one previously approved in the plan, will more economically or effectively achieve one or more of the performance standards.



(2) Developments in reclamation technology make an alternate measure to achieve one or more of the performance standards more economical, feasible, practical, or effective.

(3) Changes in the use or development of adjoining lands require changes in the intended future uses of the area of land affected in order to prevent damage to adjoining property.

(F) The holder of a surface or in-stream mining permit who desires to transfer the rights granted under the permit to another person at any time during the term of the permit or its renewal shall file with the chief an application for the transfer of the permit. The chief shall issue an order approving or disapproving the transfer of the permit in accordance with criteria and procedures established by rule.