

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1501:14-1-09

Rule Type: Amendment

Rule Title/Tagline: Payment of fees and filing of performance bond.

Agency Name: Department of Natural Resources

Division: Division of Mineral Resources Management-Industrial Mineral

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 4/11/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 1514.08
5. **What statute(s) does the rule implement or amplify?** 1514.011, 1514.02, 1514.021, 1514.03, 1514.04
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

To comply with Ohio's five-year-review requirement pursuant to Ohio Revised Code section 106.03. And to comply with ORC 121.95 and 121.951.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Contains requirements for the payment of fees and the filing of performance bonds related to industrial minerals surface mining. The proposed amendments would remove regulatory restrictions.

9. **Does the rule incorporate material by reference? No**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

Not Applicable.

Not Applicable.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Costs are dependent upon the nature of the permit: Standard permits require a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of ten thousand dollars. Permits of twenty or fewer acres issued prior to August 15, 2002 are required to file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of two thousand dollars, or five hundred dollars per acre of land to be affected, whichever is greater. The required fees are deposited with the treasurer of state to the credit of the mining regulation and safety fund created under section 1513.30 of the Revised Code.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). Yes**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

These fees are required to ensure the protection of human and environmental health and safety and to ensure the satisfactory performance of the reclamation measures required under ORC Chapter 1514.08. This rule amplifies ORC sections 1514.02, 1514.021, 1514.03, and 1514.04, which require a performance bond and fees to be submitted before a permit to mine is issued

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
- A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

In general, the rules of OAC Division 1501:14 do impose a cost on Ohio's IM surface mining operators, but this cost is imposed in order to protect Ohio's land and water resources, public health and safety, and Ohio's miners. 1501:14-1-09 Contains requirements for the payment of fees and the filing of performance bonds related to industrial minerals surface mining.

- B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes**

This rule requires fees and surety bond, cash, an irrevocable letter of credit, or certificates of deposit are to be filed by the applicant within the time prescribed by the chief in the notification of intention to issue an order granting a surface mining permit, a renewal of a surface mining permit, or an amendment to a surface mining permit. If the applicant fails to file the required fees and/or surety bond, cash, letter of credit, or certificates of deposit within the time prescribed by the chief pursuant to paragraph (A) of this rule, the chief will issue an order denying the issuance of the surface mining permit, renewal of the surface mining permit, or amendment to the surface mining permit, except that the chief may extend such time for good cause shown.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

Contains requirements for the payment of fees and the filing of performance bonds related to industrial minerals surface mining. Required fees can be surety bond, cash, an irrevocable letter of credit, or certificates of deposit. This rule amplifies ORC sections 1514.02, 1514.021, 1514.03, and 1514.04, which require a performance bond and fees to be submitted before a permit to mine is issued.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? Yes**

Rule requires payment of fees and the filing of performance bonds related to industrial minerals surface mining. Required fees can be surety bond, cash, an irrevocable letter of credit, or certificates of deposit. These fees are required from an applicant in order to grant a surface mining permit, a renewal of a surface mining permit, or an amendment to a surface mining permit. If the applicant fails to file the required fees and/or surety bond, cash, letter of credit, or certificates of deposit within the time prescribed by the chief pursuant to paragraph (A) of this rule, the chief shall will issue an order denying the issuance of the surface mining permit, renewal of the surface mining permit, or amendment to the surface mining permit.

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

- 19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

- A. How many new regulatory restrictions do you propose adding to this rule? 0**
- B. How many existing regulatory restrictions do you propose removing from this rule? 9**

1501:14-1-09(A) shall

1501:14-1-09(A)(1) shall

1501:14-1-09(A)(1) shall

1501:14-1-09(A)(2) shall

1501:14-1-09(B) shall

1501:14-1-09(C) shall

1501:14-1-09(D) shall

1501:14-1-09(E) shall

1501:14-1-09(F) shall

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

Rule Summary and Fiscal Analysis

Part C - Environmental Rule Questions

Pursuant to Am. Sub. H.B. 106 of the 121st General Assembly, prior to adopting a rule or an amendment to a rule dealing with environmental protection, or containing a component dealing with environmental protection, a state agency shall:

- (1) Consult with organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment.
- (2) Consider documentation relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or rule amendment.
- (3) Specifically identify whether the proposed rule or rule amendment is being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program, whether the proposed rule or rule amendment is more stringent than its federal counterpart, and, if the proposed rule or rule amendment is more stringent, the rationale for not incorporating its federal counterpart.
- (4) Include with the proposed rule or rule amendment and rule summary and fiscal analysis required to be filed with the Joint Committee on Agency Rule Review information relevant to the previously listed requirements.

(A) Were organizations that represent political subdivisions, environmental interests, business interests, and other persons affected by the proposed rule or amendment consulted? Yes

Please list each contact.

Ohio Coal Association
Ohio Aggregates and Industrial Minerals Association
Ohio Environmental Council

(B) Was documentation that is relevant to the need for, the environmental benefits or consequences of, other benefits of, and the technological feasibility of the proposed rule or amendment considered? Yes

Please list the information provided and attach a copy of each piece of documentation to this form. (A SUMMARY OR INDEX MAY BE ATTACHED IN LIEU OF THE ACTUAL DOCUMENTATION.)

ORC 1514.04, 1513.30

(C) Is the proposed rule or rule amendment being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal environmental law or to participate in a federal environmental program? No

Is the proposed rule or rule amendment more stringent than its federal counterpart?

Not Applicable

- (D) If this is a rule amendment that is being adopted under a state statute that establishes standards with which the amendment is to comply, is the proposed rule amendment more stringent than the rule that it is proposing to amend? No**