



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

**Agency, Board, or Commission Name:** Ohio Department of Natural Resources, Division of Mineral Resources Management

**Rule Contact Name and Contact Information:**

Brian Becker, Deputy Legal Counsel, 614-265-6861.

**Regulation/Package Title (a general description of the rules' substantive content):**

2020 Industrial Minerals (IM) Rules

**Rule Number(s):** 1501:14-1-05, 1501:14-1-16, 1501:14-2-01, 1501:14-3-12, 1501:14-3-13, 1501:14-5-04, 1501:14-6-01, and 1501:14-6-02.

**Date of Submission for CSI Review:** June 9, 2020

**Public Comment Period End Date:** June 30, 2020

**Rule Type/Number of Rules:**

New/\_0\_ rules

No Change/\_4\_ rules (FYR? \_4\_)

Amended/\_4\_ rules (FYR? \_4\_)

Rescinded/\_0\_ rules (FYR? \_0\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Reason for Submission**

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☒ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

2. **Please briefly describe the draft regulation in plain language.**

***Please include the key provisions of the regulation as well as any proposed amendments.***

The Division of Mineral Resources Management (DMRM) is submitting 8 rules that regulate industrial minerals (sometimes referred to as IM) surface mining to the Common Sense Initiative pursuant to Ohio Revised Code (ORC) section 107.52. DMRM proposes to amend four of these rules and file the other four as No-Change rules. All 8 rules have been reviewed by DMRM pursuant to section 106.03; thus, the JCARR filing will indicate that they have undergone their five-year-review.

The following is a list of the rules, their key provisions, and their proposed amendments. (Note: The attachment contains a copy of each rule; those with proposed changes are accompanied by an explanation of the changes.)

**Ohio Administrative Code (OAC) Chapter 1501:14-1.** This chapter contains the general provisions for the regulation of surface IM mining, including permit applications, liability

**77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117**

**CSIPublicComments@governor.ohio.gov**

insurance, performance bonds, mapping and reporting. One rule from this chapter is a No Change rule and one is proposed for revision:

- **1501:14-1-05 Permit transfers.** This rule sets out the process for transferring permit rights. No changes are proposed.
- **1501:14-1-16 Incorporation by reference.** This rule contains the dates of publication of the Code of Federal Regulations and the United States Code for those federal regulations and federal laws that are incorporated by reference in the IM rules, other than the IM mine safety rules of OAC Chapter 1501:14-2, and tells the public where these regulations and laws can be found. The proposed amendments update the editions the Code of Federal Regulations and the United States Code and the website address.

**OAC Chapter 1501:14-2.** This chapter contains the requirements for mine safety for surface IM operations. One rule from this chapter is proposed for amendment.

- **1501:14-2-01 Incorporation by reference of mine safety standards.** This rule contains the dates of publication of the Code of Federal Regulations for those federal regulations that are incorporated by reference in the IM mine safety rules of OAC Chapter 1501:14-2 and tells the public where these regulations can be found. The proposed amendments update the edition of the Code of Federal Regulations and the website address.

**OAC Chapter 1501:14-3.** This chapter contains performance standards for surface IM mining and reclamation. Two rules from this chapter are proposed as No Change rules.

- **1501:14-3-12 Beneficial quarry fill.** This rule contains the requirements for using lime mining wastes as a quarry fill. No changes are proposed.
- **1501:14-3-13 Controlled placement of lime mining wastes (LMW).** This rule contains the requirements for the placement, transportation, and compaction of lime mining wastes. No changes are proposed.

**OAC Chapter 1501:14-5.** This chapter contains rules to implement ORC section 1514.13, regarding IM surface mining operations that may result in dewatering, as well as a rule regarding obtaining a variance from the distance limitations for mining near a watercourse. One rule from this chapter is proposed as a No Change rule.

- **1501:14-5-04 Watercourse variances.** This rule contains the requirements for obtaining a variance to conduct industrial minerals surface mining within 50 feet of a watercourse of a certain size drainage area. No changes are proposed.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

**OAC Chapter 1501:14-6.** This chapter contains the standards and requirements for the beneficial use of lime mining wastes in an IM surface mine, pursuant to ORC section 1514.081. Both rules from this chapter are proposed for amendment.

- **1501:14-6-01 Permit application requirements for the beneficial use of lime mining wastes (LMW) within an industrial minerals permit.** This rule contains the permit requirements for the beneficial use of lime mining wastes in the reclamation of an industrial minerals surface mining operation. The proposed amendment would update information related to leachate analysis; clarify the unit of measurement to be used when providing surface elevation information; and make several small grammatical corrections.

- **1501:14-6-02 Distance limitations on the placement of LMW.** This rule contains the distance limits for the placement of lime mining wastes in reclaiming industrial minerals surface mining sites. The proposed amendment would revise the title of the rule to write out the phrase “lime mining wastes” to clarify what is meant by the acronym “LMW.”

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

<u>Ohio Administrative Code</u>	<u>Statutory Authority</u>
Rule 14-1-05:	ORC section 1514.08
Rule 14-1-16:	ORC sections 1514.08, 1514.081, and 1514.40
Rule 1501:14-2-01:	ORC section 1514.40
Rules 1501:14-3-12 and 1501:14-3-13:	ORC sections 1514.08 & 1514.081
Rule 1501:14-5-04:	ORC section 1514.08
Rules 1501:14-6-01 and 1501:14-6-02:	ORC sections 1514.08 and 1514.081

**4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No, Ohio’s IM surface mining regulations are not related to a federal regulatory program. The federal government does not regulate the mining and reclamation of IM sites in terms of their impact on the environment and adjoining properties, and there are no federal laws or regulations that are comparable to Ohio’s IM Regulatory Program.

With regard to IM surface mine safety, Ohio's IM Mine Safety Program is separate from the federal Mine Safety and Health Administration’s (MSHA’s) program and the federal government has no oversight authority over Ohio’s program. However, the Federal and Ohio surface IM Mine Safety programs do have elements in common. For example, HB 443 (effective 4/6/2007) required the Chief of DMRM to incorporate by reference certain federal MSHA regulations related to surface IM mine safety and limited the Chief’s authority to inspect those surface IM

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

operations that are inspected by MSHA. HB 443 also required the Chief to minimize duplication with federal reporting and investigation of accidents. In the field, State Mine Safety personnel work in concert with federal MSHA personnel when needed.

**5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

**6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose of OAC Division 1501:14 is to protect Ohio's land and water resources, the public, and mine employees from the potential negative impacts of IM surface mining. The IM Regulatory Program oversees active IM surface mining operations and the reclamation of the land by mining companies after extraction of minerals. The IM Mine Safety Program protects Ohio's IM surface mine workers from the potential hazards of mining through audits, training, certification, and inspections. These programs ensure that the requirements of ORC Chapter 1514. are being followed.

**7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

DMRM has the unique and challenging responsibility of regulating the IM surface mining industry in a way which strikes a balance between protecting society and the environment from the potential adverse effects of mining operations and satisfying the nation's need for industrial minerals as essential resources for economic growth. In addition, DMRM has the responsibility to protect mine workers from the occupational hazards of mining.

DMRM will measure the success of the IM Regulatory Program rules by seeing that IM surface mining continues to be carried out in Ohio in an environmentally protective manner and that all mined lands are reclaimed and restored to a productive postmining land use. DMRM will measure the success of the surface IM Mine Safety rules by the degree of safety they provide.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

## **Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

In early January 2020, DMRM Rules Coordinator Ann Laubach e-mailed an advance copy of this rule package to Pat Jacomet, Executive Director, Ohio Aggregates and Industrial Minerals Association (OAIMA), requesting the OAIMA's preliminary review of these rules. The OAIMA did not have any comments.

By letter dated January 22, 2020, DMRM Chief Dave Crow provided these rules, by e-mail, to OAIMA Executive Director Jacomet and to Trent A. Dougherty, General Counsel, Ohio Environmental Council. Chief Crow requested comments on the rules by February 21, 2020. DMRM received no comments on the rules from the OCA or the OEC.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The stakeholders had no comments on these rules.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

The rule changes are being proposed in order to provide for better clarity and consistency. The updates to the incorporation by reference rules reflect updates made to the website containing U.S. documents. The proposed changes are supported by law.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulations were considered; ORC Chapter 1514 does not allow for alternative means of compliance with these rules.

**13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

No, because ORC Chapter 1514 dictates the parameters of the regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)



**14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The ODNR Division of Mineral Resources Management is the sole agency with regulatory authority over IM surface mining. DMRM's statutes and rules were reviewed to ensure the rules were not duplicative or in conflict with existing Ohio regulations.

**15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The changes proposed to these rules are updates and clarifications that will not change the way that IM surface mining is regulated. The additional clarification regarding the unit of measure for the surface elevation of a well (in 1501:14-6-01(E)(2)(a)(ii)) will be implemented consistently throughout Ohio through interactions between the Division's permitting and hydrology staff and the regulated industry. The Ohio Aggregates and Industrial Minerals Association will be advised of the clarification so they can update their members.

**Adverse Impact to Business**

**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community; and**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.*

Answer to question a: The affected business community is all of Ohio's IM surface mining operators.

Answer to questions b and c: These regulations do not impose an adverse impact on Ohio's industrial minerals surface mining operations beyond the impact already imposed by ORC Chapter 1514.

Incorporation by reference rules. Rules 1501:14-1-16 and 1501:14-2-01 do not have a direct adverse impact on the regulated business community.

The rules in OAC Chapter 1501:14-1 require the operator to submit detailed information regarding the proposed mining operation, as well as fees, liability insurance, and a performance bond, in order to be granted a permit to mine, or a permit renewal, amendment, or transfer. The transfer rule (1501:14-1-05) includes requirements regarding eligibility to obtain a permit, performance bond coverage, public liability insurance, and right of entry documents.

Rules 1501:14-3-12, 1501:14-3-13, 1501:14-6-01 and 1501:14-6-02 all regulate the beneficial use of lime mining wastes (LMW) in surface IM mining operations. These rules have been in effect since 2005. They were created to carry out the legislative mandate of ORC section 1514.081, enacted by SB 15 of the 124th General Assembly, effective 10/8/2001. This law directed the Chief to establish standards and requirements for the beneficial use of LMW in surface IM mining. The law also directed the Chief, in order to protect human health and the environment, to establish standards and requirements for: the monitoring of ground water associated with the beneficial use of LMW, and the taking of corrective action in the event of a subsurface discharge of leachate from the beneficial use of LMW or of contamination of ground water resulting from the beneficial use of LMW. The rules contain detailed requirements on the transportation, placement, and compaction of LMW. The rules require a permittee wishing to use LMW to collect and submit additional application information, including: a description and characterization of the LMW; the hydrology and geology of the mine area; operations and reclamation plans; ground and surface water monitoring plans for both the active mining operation and the postmining period; and additional LMW-specific mapping details. The LMW rules were created with significant industry involvement; DMRM staff met with quarry owners to discuss the details of these requirements. These rules are appropriate and necessary in order to allow for the use of LMW in IM surface mining reclamation while protecting the public and the environment from the potential adverse effects of LMW pollution.

The rules in OAC Chapter 1501:14-5 require operators of IM surface mining operations that will dewater to submit supplemental information in the permit application, including a hydrogeologic description and map, as well as ground water data that will allow the Chief to establish a projected cone of depression. Rule 1501:14-5-04 is part of this chapter; it requires more detailed information to be submitted by operations that are requesting a variance to mine close to certain size watercourses.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

ORC Chapter 1514 establishes the parameters for these rules. The chapter provides many safeguards to protect the public and the environment from the potential adverse effects of industrial minerals surface mining.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)



## **Regulatory Flexibility**

### **18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

ORC Chapter 1514 does not contain any small business exemptions but does provide one alternative means of compliance for small operators. ORC section 1514.02(A)(12) allows operators (other than in-stream mining operators) who intend to extract less than 10,000 tons of minerals annually and no incidental coal to submit a tax map and USGS topographic map in lieu of a map prepared and certified by a surveyor or engineer.

Ohio law also provides for a reduced filing fee for small operators. ORC section 1514.03 requires small operators (those who intend to extract less than 10,000 tons of minerals annually and no incidental coal) and in-stream mining operators to submit a filing fee of \$250 each year with their annual report rather than the \$500 filing fee required of larger operators.

In addition, the definition of “surface mining” in ORC 1514.01(A) provides exceptions to regulation under Chapter 1514 for certain circumstances, e.g., test or exploration boring, construction operations, routine dredging, and sanitary landfills, as well as “the extraction of minerals, other than coal, by a landowner for the landowner’s own noncommercial use where such material is extracted and used in an unprocessed form on the same tract of land” and “the removal of minerals to a depth of not more than five feet, measured from the highest original surface elevation of the area to be excavated, where not more than one acre of land is excavated during twelve successive calendar months.”

### **19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

DMRM does not normally assess penalties for paperwork violations unless a pattern of violations develops, the issue goes into non-compliance, or an operator knowingly or willingly fails to submit required reports. Further, section 119.14 is not applicable to the regulation of IM surface mining because a violation of ORC Chapter 1514 or OAC Division 1501:14:

- Has the potential to cause serious harm to the public interest that DMRM is charged to protect.
- Presents a direct danger to the public health or safety, or the risk of severe environmental harm.

### **20. What resources are available to assist small businesses with compliance of the regulation?**

DMRM’s IM Program staff are available to help anyone who needs guidance or assistance in complying with these rules.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

## **IM rules 2020**

1501:14-1-05 Permit transfers. No Change

1501:14-1-16 Incorporation by reference. Proposed updates.

1501:14-2-01 Incorporation by reference of mine safety standards. Proposed updates.

1501:14-3-12 Beneficial quarry fill. No Change

1501:14-3-13 Controlled placement of lime mining wastes (LMW). No Change

1501:14-5-04 Watercourse variances. No Change

1501:14-6-01 Permit application requirements for the beneficial use of lime mining wastes (LMW) within an industrial minerals permit. Updates and clarifications proposed.

1501:14-6-02 Distance limitations on the placement of LMW. Small clarification proposed.

**8 IM rules total**

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**1501:14-1-05      Permit transfers. No Change Rule.**

**(A) Transfer of permit rights.**

- (1) Any person seeking to succeed by transfer to the rights granted by a permit shall submit an application for a transfer of a surface mining permit. Such application shall be on forms prescribed by the chief and shall include at a minimum:
  - (a) The name and address of the existing permittee and the permit number;
  - (b) The information required by divisions (A)(1), (A)(7), and (A)(8) of section 1514.02 of the Revised Code for the applicant proposing to succeed by transfer, and if applicable, the name and address of that person's statutory agent;
  - (c) The signatures of the applicant and the current permit holder, and
  - (d) A sworn statement by the applicant for the transfer as required by division (A)(14) of section 1514.02 of the Revised Code.
- (2) The chief shall, upon the basis of the applicant's compliance with the requirement of paragraph (A)(1) of this rule, grant written approval of the transfer of rights under a permit if the chief first finds, that:
  - (a) The applicant is eligible to obtain a permit in accordance with division (B) of section 1514.02 of the Revised Code; and
  - (b) The person seeking the transfer will conduct the operations covered by the permit in accordance with the requirements of Chapter 1514. of the Revised Code and these rules and that any orders by the chief outstanding at the time of the transfer of the permit will be complied with in accordance with a schedule for such work approved with the transfer.
- (3) Upon notification from the chief of the chief's intent to issue an order granting a transfer of a permit, the applicant for the transfer shall file with the chief all of the documents listed in paragraphs (A)(3)(a) to (A)(3)(c) of this rule. The name of the applicant on each document in paragraphs (A)(3)(a) to (A)(3)(c) of this rule shall be identical to the name of the applicant in paragraphs (A)(1) and (A)(2) of this rule:
  - (a) Performance bond coverage for the permit in accordance with section 1514.04 of the Revised Code;
  - (b) A certificate of public liability insurance as required by division (A)(13) of section 1514.02 of the Revised Code; and
  - (c) A copy of a deed, lease, or other instrument that authorizes entry upon the land within the permit by the applicant if surface rights in the land are not owned by the applicant for the transfer.
- (4) Upon receipt of the documents required in paragraph (A)(3) of this rule, the chief shall issue an order granting the transfer of the permit applied for.

Draft Rule 1501:14-1-16, dated 2/5/2020.

This is a summary of the changes made to this rule.

(A) and (B). Updated with the most recent editions of the Code of Federal Regulations and U.S. Code that are available on the U.S. Government Publishing Office (GPO) website. GPO website info also updated.

*Just before this rule is filed with JCARR, it will be updated with the most recent dates for the Code of Federal Regulations and the U. S. Code.*

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**Dated 2/5/2020**

**1501:14-1-16      Incorporation by reference.**

(A) The Code of Federal Regulations (C.F.R.) references listed in Chapter 1501:14-1 and Chapters 1501:14-3 to 1501:14-6 of the Administrative Code are those published in the July 1, ~~2018~~2019, C.F.R. These regulations can generally be found in public libraries or electronically at the website ~~www.gpo.gov/fdsys/~~[govinfo.gov/](http://www.gpo.gov/fdsys/govinfo.gov/). These regulations are:

- (1) 30 C.F.R. 50.2.
- (2) 30 C.F.R. parts 56 and 58, as amended.
- (3) 40 C.F.R. parts 122, 123, and 136, as amended.

(B) The federal laws listed in these rules are those published in the ~~2012~~2018 edition of the United States Code (U.S.C.), dated January ~~15~~14, ~~2013~~2019, ~~as supplemented in 2017, effective January 12, 2018~~. These laws can generally be found in public libraries or electronically at the website ~~www.gpo.gov/fdsys/~~[govinfo.gov/](http://www.gpo.gov/fdsys/govinfo.gov/). These laws are:

- (1) Section 5(a) of the Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq., as amended.
- (2) The Clean Water Act, 33 U.S.C. 1251 et seq., as amended.
- (3) The Rivers and Harbors Act of 1899, 33 U.S.C. 403, as amended.

*Just before this rule is filed with JCARR, it will be updated with the most recent dates for the Code of Federal Regulations and the U. S. Code.*

Draft Rule 1501:14-2-01, dated 2/5/2020.

This is a summary of the changes made to this rule.

(A). Updated with the most recent edition of the Code of Federal Regulations that is available on the Government Publishing Office (GPO) website. GPO website info also updated.

*Just before this rule is filed with JCARR, it will be updated with the most recent dates for the Code of Federal Regulations.*



**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**Dated 2/5/2020**

**1501:14-2-01      Incorporation by reference of mine safety standards.**

- (A) The Code of Federal Regulations (C.F.R.) references listed in Chapter 1501:14-2 of the Administrative Code are those published in the July 1, ~~2018~~[2019](https://www.gpo.gov/fdsys/govinfo.gov/), C.F.R. These regulations can generally be found in public libraries or electronically at the website ~~www.gpo.gov/fdsys/~~[govinfo.gov/](https://www.gpo.gov/fdsys/govinfo.gov/). These regulations are 30 C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended.
- (B) This rule shall be reviewed and updated as pertinent changes take place in 30 C.F.R. and as the publication date of the C.F.R. is updated. This review shall take place at least annually.

*Just before this rule is filed with JCARR, it will be updated with the most recent dates for the Code of Federal Regulations and the U. S. Code.*

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

## **1501:14-3-12      Beneficial quarry fill. No Change Rule.**

Lime mining wastes as quarry fill.

Lime mining wastes may be placed in a mined out area of a quarry in order to achieve the approximate original elevation. The operator shall transport, backfill and compact where applicable to ensure stability. The reclaimed surface shall be resoiled with a minimum of four feet of non-toxic earthen material and a minimum of six inches of topsoil unless an alternative plan for cover or treatment is approved by the chief based upon a showing by the applicant that the alternative plan is as effective for protecting water quality and sustaining vegetative growth. The graded surface shall be revegetated in accordance with this chapter. All exposed slopes shall be constructed to eighteen degrees from the top of the fill to the bottom of the quarry floor with the appropriate earthen cover.

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

## **1501:14-3-13      Controlled placement of lime mining wastes (LMW). No Change Rule.**

Transportation, placement, and compaction.

- (A) When transporting, placing and compacting LMW, the permittee shall comply with all applicable emission controls required by Chapter 3704. of the Revised Code and the rules thereunder;
- (B) LMW shall be placed in a controlled manner to prevent mass movement;
- (C) The placement area shall be constructed to minimize the infiltration of water;
- (D) The placement area shall be within the permit, shown as affected or proposed to be affected, and bonded;
- (E) The final configuration shall be compatible with the natural drainage pattern and surroundings and suitable for intended uses;
- (F) The design of the LMW placement area shall be certified by a qualified registered engineer in conformance with professional standards;
- (G) The permittee shall minimize disturbances of and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable; and
- (H) The placement and use of LMW shall be protective of human health and the environment and not damage public or private property.

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

## **1501:14-5-04      Watercourse variances. No Change Rule.**

The chief may grant a variance to affect areas within fifty feet of the highwater mark on each bank of a watercourse that drains a surface area of greater than twenty-five square miles but fewer than one hundred square miles for surface excavations and/or surface mining activities pursuant to divisions (E)(3) and (F)(3) of section 1514.10 of the Revised Code using the following procedure and standard of review.

- (A) An applicant for a variance shall submit a request on forms prescribed by the chief. The request shall include, at a minimum:
  - (1) A description of the activities proposed to be conducted within the variance area and the duration of the proposed activities;
  - (2) The name of the watercourse and the distance to the highwater mark of the watercourse from the variance area where the proposed activities would be conducted;
  - (3) An explanation of why it is necessary to conduct the proposed activities within the variance area;
  - (4) An explanation of alternatives to the proposed activities that were considered;
  - (5) A description of the physical conditions in and around the watercourse;
  - (6) Plans, drawings and design details necessary to reflect any temporary or permanent relocation or restoration of the watercourse;
  - (7) Plans for the reclamation of areas proposed to be affected within the variance area; and
  - (8) Plans describing the measures to be employed to protect unaffected portions of the watercourse and surrounding areas.
- (B) The chief shall grant a variance for surface excavations and/or surface mining activities upon a written finding that the activities, measures, and reclamation proposed will be sufficient to prevent damage to the watercourse and/or surrounding area.
- (C) If an applicant for a variance has also obtained an individual state or federal permit pursuant to the Clean Water Act under section 401 ("section 401 permit") or section 404 ("section 404 permit") in conjunction with the requested variance activity, the chief shall presume that the measures set forth in those permits are sufficient to prevent damage to the watercourse and/or surrounding area.
- (D) For dates of federal rules and federal laws referenced in this rule, see rule 1501:14-1-16 of the Administrative Code.

Draft Rule 1501:14-6-01, dated 1/2/2020.

This is a summary of the changes made to this rule.

(B)(2)(b). Update the name of the ASTM method referenced in this paragraph. Update of the website where USEPA methods 1311 and 1312 are located.

(B)(3)(s) and (t); (E)(4)(d)(xx) and (xxi); (F)(2)(a)(xix) and xx). Small grammatical corrections.

(E)(2)(a). Unit of measurement added: “in feet above mean sea level.”

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

1/2/2020 Amendments on page 2, paragraph (B)(2)(b), and page 5, paragraph (E)(2)(a)(ii); small grammatical corrections elsewhere.

## **1501:14-6-01 Permit application requirements for the beneficial use of lime mining wastes (LMW) within an industrial minerals permit.**

### **(A) General requirements.**

- (1) This rule shall apply only to industrial mineral mining operations where calcined lime mining wastes (LMW) will be incorporated in final reclamation as a beneficial use and are in addition to requirements of sections 1514.02 and 1514.021 of the Revised Code.
- (2) An application for a surface mining permit which will utilize LMW shall be deemed complete when it is received by the chief, unless the application fails to contain all substantial information required by Chapter 1514. of the Revised Code and the rules adopted pursuant thereto.
- (3) Each application shall describe and identify the lands subject to industrial mineral mining, the estimated life of those operations, and the size, sequence, and timing of the mining and reclamation. It shall also contain the total acreage in which LMW will be utilized and a narrative with scientific support of that beneficial use.
- (4) This rule does not authorize the use of LMW to create a new structure that rises above the approximate original elevation of the existing permit or amended area. New LMW placements shall be within a quarry excavation, unless approved as a soil amendment. The chief may grant a variance to this provision for new lime facilities for discreet and temporary beneficial applications such as visual barriers, berms or other uses. Temporary beneficial applications shall be for no more than five years unless extended by the chief based upon a demonstration by the permittee that more time is justified. When the chief terminates the temporary designation, the temporary storage sites shall be removed and used for the approved permanent beneficial use within one year. A longer time may be approved by the chief based upon a demonstration by the permittee. The affected acreage must be permitted and bonded.
- (5) New beneficial uses of LMW that began after October 8, 2001, will be characterized as a significant permit or a significant amendment to a permit and shall follow the requirements of this rule.

### **(B) Description and characterization of LMW proposed for beneficial use. For all proposed beneficial uses of LMW, the applicant shall identify and describe the LMW according to paragraph (B)(1) of this rule and characterize the LMW using the parameters in paragraph (B)(2) of this rule.**

- (1) Identification and description. The applicant shall provide the following to identify and describe the LMW:
  - (a) Generating process and facility site location;
  - (b) Types of LMW;
  - (c) Combustion process and fuel used;
  - (d) Amount of LMW to be used annually; and
  - (e) Mixing of types of LMW including weighted averages.



**\*\*\*DRAFT - NOT FOR FILING\*\*\***

(2) Characterization.

- (a) Characterization data for a proposed new LMW processing facility. The applicant shall provide representative waste characterization data for the parameters listed in paragraph (B)(3) of this rule from a similar processing facility that uses similar raw materials, combustion processes and fuel. The applicant shall analyze the LMW to confirm or revise the waste characterization data within six months of start-up of the facility.
- (b) Characterization for all proposed beneficial uses of LMW. The applicant shall analyze and characterize the LMW by conducting leachate analysis for the parameters listed in paragraph (B)(3) of this rule utilizing the USEPA method 1311, USEPA method 1312 or ASTM ~~D-3987-06~~[D3987-12](https://www.astm.org/standards/D3987-12) method. The ASTM international method shall be used for analysis of fluoride, chloride, sulfate, total dissolved solids, acidity, alkalinity, and pH. The website for ASTM international is <http://www.astm.org>. USEPA methods 1311 and 1312 can be found in the U.S. environmental protection agency's publication SW-846, entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," which is available at the website <http://www.epa.gov/osw/hazard/testmethods/sw846/index.htm> <https://www.epa.gov/hw-sw846/sw-846-compendium>. As an alternative, the applicant may collect and characterize representative in-situ leachate samples from the LMW and analyze the samples for the parameters listed in paragraph (B)(3) of this rule. Additional parameters or an alternate parameter list may be required to be analyzed at the discretion of the chief. The initial method chosen for each parameter shall be used in all subsequent sample analysis unless the chief approves an alternative method. The chief may approve another applicable EPA or approved test method provided the applicant requests, in writing, the use of such test method prior to submittal of the analysis.
- (c) Annual characterization data for all permitted beneficial uses of LMW. The permittee shall submit to the chief annual representative waste data. All annual waste characterization samples shall be analyzed for the parameters listed in paragraph (B)(3) of this rule or an alternate parameter list approved by the chief. For a lime processing facility, the applicant shall analyze the LMW on an annual basis and whenever there are significant changes in the raw materials or combustion processes that are likely to impact characterization as determined by the chief.

(3) The following parameters shall be analyzed in accordance with the procedures described in paragraph (B)(2) of this rule:

- (a) Acidity;
- (b) Alkalinity;
- (c) Arsenic;
- (d) Barium;
- (e) Cadmium;
- (f) Chloride;

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (g) Chromium;
  - (h) Copper;
  - (i) Fluoride;
  - (j) Iron;
  - (k) Lead;
  - (l) Manganese;
  - (m) Mercury;
  - (n) pH;
  - (o) Selenium;
  - (p) Sulfates;
  - (q) Total dissolved solids;
  - (r) Zinc;
  - (s) Beryllium (analysis required only if ~~plants~~plant's fuel includes shredded tires);
  - (t) Total organic carbon (analysis required only if ~~plants~~plant's fuel includes shredded tires);
  - (u) Silver; and
  - (v) Additional parameters that may be required to be analyzed at the discretion of the chief.
- (4) Additional requirements for agronomic use. For LMW proposed for agronomic use within the permit area, the applicant shall analyze and characterize the LMW by conducting analysis pursuant to paragraph (B)(2) of this rule for the parameters of paragraph (B)(3) of this rule and for the following additional parameters:
- (a) pH;
  - (b) Soluble salts;
  - (c) Phosphorus;
  - (d) Potassium;
  - (e) Calcium;
  - (f) CEC (cation exchange capacity); and
  - (g) Boron.
- (5) Additional requirements for use as a low permeability material. For LMW proposed to be used as a low permeability material, the applicant shall analyze and characterize the LMW by conducting analysis

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

pursuant to paragraph (B)(2) of this rule for the parameters of paragraph (B)(3) of this rule and shall also:

- (a) Indicate the hydraulic conductivity in centimeters per second or feet per day. Indicate the method used to obtain the conductivity, and attach the appropriate laboratory reports;
- (b) Describe the required volume, thickness (if layered), and areal extent of the LMW material;
- (c) Submit or reference appropriately engineered designs and plans for the low-permeability project; and
- (d) Submit a grain size distribution analysis for the LMW material.

## **(C) Description of hydrology and geology; general requirements.**

Each application which will include LMW as a beneficial use as part of the reclamation shall contain a description of surface and ground water within the general area, and any water that will flow into or receive discharges of water from the permit area and any LMW beneficial use area proposed to be amended to the permit. The description shall be prepared in the manner required by paragraphs (D) to (G) of this rule, and conform to the following:

- (1) Information on hydrology, water quality and quantity, and geology related to hydrology of areas outside the proposed LMW beneficial use area and within the general area shall be provided to the chief. The permit shall not be approved by the chief until this information is made available in the application and deemed acceptable; and
- (2) As a substitute for the background data required in paragraphs (D) to (F) of this rule, each application for a LMW beneficial use site on an existing operation already under permit under Chapter 1514. of the Revised Code on October 8, 2001, shall propose a plan for the collection of background data and information that is representative of the site's hydrological and geological characteristics prior to mining. The permit shall not be approved by the chief until this information is made available in the application and deemed acceptable.

## **(D) Geology description.**

- (1) Each application shall include geologic information in sufficient detail to assist in determining the probable impact of the operation upon the quality and quantity of surface and ground water in the permit and surrounding areas, including the extent to which surface and ground water monitoring is necessary; and whether the utilization of LMW as a component of the proposed reclamation has been designed to protect human health and the environment.
- (2) The description shall include a general statement of the geology within the proposed permit area and surrounding areas down to and including an identification of the deepest aquifer below the lowest elevation of the industrial mineral to be mined. It shall also include how the areal and structural geology may affect the occurrence, availability, movement, quantity, and quality of potentially affected surface and ground waters. It shall be based on:
  - (a) The cross sections, maps and plans required by paragraph (K) of this rule;
  - (b) The information obtained from test borings under paragraph (D)(3) of this rule; and

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

(c) Other sources approved by the chief based upon site-specific conditions.

- (3) Each application for a permit shall contain the results of test borings conducted on the area of land to be mined, when required. Test borings or core samples for the proposed LMW beneficial use area shall be collected and analyzed down to and including the stratum below the elevation of the industrial mineral to be mined. Individual drilling reports shall be furnished for each test boring or core sampling and shall contain the location of subsurface water if encountered.

(E) Ground water information.

- (1) The application shall contain a description of the ground water hydrology for the proposed permit and surrounding areas and the proposed LMW beneficial use area, including, at a minimum:
- (a) The depth below the surface and the horizontal extent of the confined and unconfined aquifers;
  - (b) The lithology and thickness of the aquifers;
  - (c) Known uses of the water and locations of existing water supply wells within one thousand feet of the proposed beneficial use area;
  - (d) The quality of subsurface water, if encountered;
  - (e) The depth to the water in the mineral deposit if the deposit is a water-bearing stratum, and each water-bearing stratum above and below the potentially affected water-bearing stratum;
  - (f) The approximate rate of discharge or usage of the water and the existing groundwater flow conditions in the water bearing unit(s) in the area of the surface mining operation. For a new LMW beneficial use involving surface mining operations for which a cone of depression was established as required by division (A) of section 1514.13 of the Revised Code, the applicant shall include a description of the cone of depression that was generated; and
  - (g) The approximate regional potentiometric surface and regional flow paths of water bearing unit(s) in the area prior to the start of the surface mining operations.
- (2) The application shall contain a water supply inventory to include, at a minimum:
- (a) A list of existing water wells and public water supply wells on the proposed permit and surrounding areas within one thousand feet of the proposed LMW beneficial use area to describe the quality and quantity of the ground water. The chief may specify a greater distance based upon site-specific characteristics. Information shall include:
    - (i) Identification number of the well;
    - (ii) Surface elevation of the well in feet above mean sea level;
    - (iii) Depth of the well in feet below the land surface;
    - (iv) Static water level of the well in feet below the land surface;
    - (v) The lithology of the aquifer in which each well is developed; and

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

(vi) Name of the owner of the well.

- (3) If any of the information required in the water supply inventory of paragraph (E)(2)(a) of this rule is unobtainable, a statement to that effect shall be submitted, giving the reasons therefor.
- (4) The application shall contain the results of background water quality analyses and measurements of static water level or discharge of a representative number of monitoring points on the permit and surrounding areas.
- (a) Wells chosen for analysis and measurement shall, as a group, represent all known aquifers present in the permit and surrounding areas and shall, wherever possible, be those nearest to or on the proposed beneficial use area.
- (b) Sampling for water quality analysis shall be conducted at a minimum one time prior to submission of an application for a permit or modification of a permit that utilizes LMW. For the purpose of ground water monitoring, at least six months of background water quality data must be collected prior to implementation of the post-reclamation ground water monitoring plan. This background ground water quality data shall be established in accordance with procedures contained in the post-reclamation ground water monitoring plan required under paragraph (G)(2) of this rule.
- (c) The measurement of static water level or discharge shall be conducted for each well identified in paragraph (E)(4)(a) of this rule at a minimum one time prior to submission of an application for a permit or modification of a permit.
- (d) Water samples collected at the sites prescribed in this rule shall be analyzed for the following parameters according to the methodology specified in 40 C.F.R. part 136:
- (i) Acidity;
  - (ii) Alkalinity;
  - (iii) Arsenic;
  - (iv) Barium;
  - (v) Cadmium;
  - (vi) Chloride;
  - (vii) Chromium;
  - (viii) Copper;
  - (ix) Fluoride;
  - (x) Iron;
  - (xi) Lead;
  - (xii) Manganese;
  - (xiii) Mercury;

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (xiv) PH;
- (xv) Selenium;
- (xvi) Silver;
- (xvii) Sulfates;
- (xviii) Total dissolved solids;
- (xix) Zinc;
- (xx) Beryllium (analysis required only if ~~plant~~plant's fuel includes shredded tires);
- (xxi) Total organic carbon (analysis required only if ~~plant~~plant's fuel includes shredded tires); and
- (xxii) Additional parameters that may be required to be analyzed at the discretion of the chief.

(5) Water quality and quantity data sufficient to identify seasonal variations shall be submitted with an application for a permit.

(6) The results of water quality analyses and measurements prescribed in this rule shall be reported on a form to be provided by the chief.

(F) Surface water information.

(1) In and within one thousand feet of the existing or proposed permit area, including the proposed LMW beneficial use area and surrounding areas, all surface water bodies shall be described. Surface water bodies that will receive discharges from the operation or whose water will come in contact with water from the operation shall be sampled. The surface water to be sampled shall include the receiving stream, waterway, or water body if such surface water is present. The description shall include the name of any watershed that will receive water discharges, the name, ownership and location of all surface-water bodies and the known uses of the water in these water bodies.

(2) Water samples collected under this rule shall be analyzed according to the methodology specified in 40 C.F.R. part 136.

(a) Surface water information shall include the following water quality data to identify the characteristics of surface waters within the existing or proposed permit area, including the proposed LMW beneficial use area and surrounding areas:

- (i) Acidity;
- (ii) Alkalinity;
- (iii) Arsenic;
- (iv) Barium;
- (v) Cadmium;
- (vi) Chromium;



**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (vii) Cooper;
- (viii) Fluoride;
- (ix) Iron;
- (x) Lead;
- (xi) Manganese;
- (xii) Mercury;
- (xiii) PH;
- (xiv) Selenium;
- (xv) Silver;
- (xvi) Sulfates;
- (xvii) Total dissolved solids;
- (xviii) Zinc;
- (xix) Beryllium (analysis required only if ~~plant~~plant's fuel includes shredded tires);
- (xx) Total organic carbon (analysis required only if ~~plant~~plant's fuel includes shredded tires); and
- (xxi) Additional parameters that may be required to be analyzed at the discretion of the chief.

(3) Water quality and quantity data sufficient to identify seasonal variations shall be submitted with an application for a permit.

(4) The results of water quality analyses and measurements prescribed in this rule shall be reported on a form to be provided by the chief.

(G) Ground water and surface water monitoring plans.

The applicant shall prepare and submit ground water and surface water monitoring plans as described in this paragraph. Specifically, during the active operational monitoring period, the ground water and surface water monitoring plans as described in paragraphs (G)(1) and (G)(3) of this rule shall be implemented. During the five-year post-reclamation monitoring period, the ground water and surface water monitoring plans as described in paragraphs (G)(2) and (G)(4) of this rule shall be implemented.

(1) Ground water monitoring plan during active operation.

If the ground water flow conditions, as required by paragraph (E)(1)(f) of this rule, demonstrate that the existing or proposed LMW beneficial use area lies or will lie within the surface mine's cone of depression, the applicant shall submit a ground water monitoring plan that is capable of demonstrating the impact of the LMW on water within the cone of depression during the active operational period. Additional monitoring may be required if determined to be warranted by the chief. The plan shall, at a minimum, include:

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (a) A sufficient number of observation points to demonstrate that ground water beneath and within the immediate vicinity of the LMW beneficial use area is being captured by the dewatering system for the surface mine;
- (b) The collection of water level measurements on a quarterly basis, or an alternate schedule that is approved by the chief based upon a suitable justification by the applicant; and
- (c) The ground water level information shall be submitted to the chief, in a manner prescribed by the chief, within fifteen days following the end of the quarter in which the ground water levels were measured.

## **(2) Ground water monitoring plan during the post-reclamation period.**

The application shall include a post-reclamation ground water monitoring plan that is based upon the information required under paragraph (E) of this rule and upon the analysis of all baseline hydrologic, geological and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved post-mined land uses and for protection of human health and the environment as set forth in this rule. The ground water quality monitoring plan shall be maintained a minimum of five years after reclamation.

- (a) At a minimum, the monitoring parameters shall include:
  - (i) Alkalinity;
  - (ii) Chloride;
  - (iii) Lead;
  - (iv) Sulfate;
  - (v) Total dissolved solids; and
  - (vi) Additional parameters that the chief may require to be monitored based upon the waste characterization or leachate analysis and the background sampling of ground water. A comparison of leachate and background results to thirty times primary or secondary maximum contaminant level standards, and other geologic and hydrologic information shall determine the specific ground water quality indicator parameters to be included in the ground water monitoring plan during the post-reclamation period.
- (b) The ground water sampling frequency shall be quarterly. The chief may require more frequent sampling based on site-specific conditions. The chief may approve less frequent sampling based upon a suitable justification by the applicant.
- (c) The post-reclamation ground water monitoring plan shall also include:
  - (i) A description of and rationale for the monitoring points;
  - (ii) The procedures for collecting representative ground water samples;
  - (iii) The procedures used for the collection of the background water quality data;

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (iv) A description of how the representative ground water quality will be evaluated to determine the LMW is not causing impacts to human health and the environment; and
  - (v) The quality assurance/quality control procedures to be used to verify that the results are representative of the ground water quality.
  - (d) The data resulting from post-reclamation ground water monitoring shall be submitted to the chief, in a manner prescribed by the chief, within fifteen days following the end of the quarter in which the sample was collected and analyzed.
  - (e) The five-year post-reclamation monitoring period shall be initiated after the ground water levels have stabilized following the cessation of dewatering activities. The stabilization of ground water levels shall be determined by collection of water level measurements from the monitoring points used in the operational ground water monitoring plan. The operator shall notify the chief, in writing, that the ground water levels have stabilized thirty days prior to implementing the five-year post-reclamation monitoring plan for ground water. The bond for the LMW beneficial use area shall be held until the five-year post-reclamation monitoring period has been completed, and the applicant demonstrates water quality will protect human health and the environment.
- (3) Surface water monitoring plan during active operation.
- (a) The application shall include a surface water monitoring plan based upon the analysis of the hydrologic, geologic and other information in the permit application. The plan shall, in accordance with a schedule approved by the chief, provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved post-mined land uses and for protection of human health and the environment as well as the effluent limitations set forth in 40 C.F.R.
  - (b) The plan shall identify the surface water quantity and quality parameters to be monitored, sampling frequency and site locations. During the period of active operation, samples shall be collected from the sump or the outfall on a quarterly basis. The chief may require more frequent sampling based on site-specific conditions. The chief may approve less frequent sampling based upon a suitable justification by the applicant. The active operational surface water monitoring plan shall describe how the data may be used to determine the impacts upon the hydrologic systems during the active operational monitoring period and the five-year post-reclamation monitoring period. The surface water monitoring plan shall include:
    - (i) A description of and rationale for monitoring locations for the active operational monitoring period;
    - (ii) A list of parameters to be monitored during the active operational monitoring period. The parameter list shall, at a minimum, include:
      - (a) Alkalinity;
      - (b) Chloride;
      - (c) Lead;
      - (d) Sulfate; and

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (e) Total dissolved solids;
  - (iii) During active operation, the point source discharge(s) shall be monitored in accordance with 40 C.F.R. parts 122 and 123, and as required by the "National Pollutant Discharge Elimination System" permitting authority;
  - (iv) If the chief determines it is necessary, additional surface water parameters shall be monitored based on a comparison of waste characterization or leachate results to background sampling results, surface water quality standards, and other geologic and hydrologic information to determine the specific water quality parameters to be included in the surface water monitoring plan implemented during the active operational monitoring period and during the five-year post-reclamation monitoring period. If prescribed by the chief, additional monitoring parameters beyond those required in paragraph (G)(3)(b)(ii) of this rule shall be analyzed on a quarterly basis;
  - (v) A description of how the representative surface water quality data will be evaluated to determine the LMW is not causing impacts to human health and the environment; and
  - (vi) A schedule providing for the data resulting from this monitoring to be submitted to the chief, in a manner prescribed by the chief, within fifteen days following the end of the quarter in which the sample was collected and analyzed.
- (4) Surface water monitoring plan during the post-reclamation monitoring period.
- (a) The application shall include a post-reclamation monitoring plan based upon the analysis of the hydrologic, geologic, and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved post-mined land uses and for protection of human health and the environment.
  - (b) The plan shall identify the surface water quality parameters to be monitored, sampling locations and frequency. The frequency standard shall be quarterly; however the chief may increase the frequency based upon site-specific conditions or decrease the frequency based upon a suitable justification by the applicant. The collected data and the surface water monitoring plan shall address potential impacts upon the hydrologic systems during the active operational monitoring period and the five-year post-reclamation monitoring period. The surface water monitoring plan shall include:
    - (i) A description of and rationale for monitoring locations for the post-reclamation monitoring period;
    - (ii) A list of parameters to be monitored during the five-year post-reclamation monitoring period. The parameter list shall at a minimum, include:
      - (a) Alkalinity;
      - (b) Chloride;
      - (c) Lead;
      - (d) Sulfate; and
      - (e) Total dissolved solids;

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (iii) If the chief determines it is necessary, additional surface water parameters shall be monitored based on a comparison of waste characterization or leachate results to background sampling results, surface water quality standards, and other geologic and hydrologic information to determine the specific water quality parameters to be included in the surface water monitoring plan implemented during the active operational monitoring period and the five-year post-reclamation monitoring period. If prescribed by the chief, additional monitoring parameters beyond those required in paragraph (G)(4)(b)(ii) of this rule shall be analyzed on a quarterly basis;
- (iv) For the surface water monitoring plan, the five-year post-reclamation monitoring period shall be initiated after the dewatering activities have ceased and after surface water is in contact with the beneficially used LMW. During this monitoring period, the list of additional parameters, if prescribed by the chief, shall be used to evaluate surface water quality;
- (v) A description of how the representative surface water quality data will be evaluated to determine the LMW are not causing impacts to human health and the environment; and
- (vi) The data resulting from this monitoring shall be submitted to the chief, in a manner prescribed by the chief, within fifteen days following the end of the quarter in which the sample was collected and analyzed.

(H) Alternative water supply information and corrective action plan.

The application shall identify the extent to which the proposed LMW beneficial use may result in contamination of a source of water that is used for domestic or other legitimate use. If contamination may result, the description shall contain information on corrective action to be taken, including the suitability of alternative water sources.

(I) Supplemental information.

If the determination of the probable hydrologic impacts indicates that adverse impacts on or off the proposed permit area may occur to the human health or the environment, information supplemental to that required under paragraphs (D) to (F) of this rule shall be provided to evaluate such probable hydrologic impacts and to plan remedial and reclamation activities. Such supplemental information may be based upon drilling, aquifer tests, hydro- geologic analysis of the water-bearing strata, flood flows, or analyses of other water quality or quantity characteristics.

(J) Land-use information.

The LMW beneficial use application shall contain a plan of mining and reclamation which describes the proposed land uses within the permit and any LMW beneficial use area proposed to be amended to the permit, including plans for covering and capping the LMW.

(K) Maps: general requirements.

The permit application or amendment application shall include an application map or amendment map prepared by or under the direction of and certified by an engineer or a surveyor or jointly by an engineer and a surveyor, to the extent such joint certification is required by state law. The map(s) shall comply with the standards set forth in Chapter 1514. of Revised Code and division 1501:14 of the Administrative Code and

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

in addition shall contain:

- (1) The locations of water supply intakes for current users of surface water flowing into, out of, and within one thousand feet beyond the LMW beneficial use permit area, those surface waters which will receive discharges from affected areas in the proposed permit area or amended area, and the locations of any discharges to any surface body of water on or adjacent to the land to be affected. A greater distance may be required by the chief based upon site-specific factors which result in a determination by the chief that impacts beyond one thousand feet may occur;
  - (2) Any land within the proposed permit area or amended area which is within the boundaries of any units of the national system of trails or the wild and scenic rivers system, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act or study rivers or study river corridors as established in any guidelines pursuant to that act;
  - (3) The names, locations, and directions of flow of all perennial and intermittent streams within the permit area or amended area and within five hundred feet of the permit area or amended area;
  - (4) The name of the drainage basin in which the permit area or amended area is located as listed in the "Gazetteer of Ohio Streams," published by the Ohio department of natural resources;
  - (5) The drainage control system to include the location of:
    - (a) Each sediment control structure, discharge point and, if applicable, the OEPA pond identification number;
    - (b) Any diversions; and
    - (c) Any treatment facilities;
  - (6) The location or proposed location of LMW incorporated in final reclamation;
  - (7) Elevations and locations of test borings and core samplings;
  - (8) Location and extent of subsurface water, if encountered, within the proposed permit area or amended area;
  - (9) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit area or amended area;
  - (10) Location and extent of existing areas of spoil piles, LMW, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area or amended area;
  - (11) The location and start and end points of all submitted cross-sections. At least one transverse cross section and one longitudinal cross section must be provided showing elevation, final profile, saturated zone, drainage away from and reclaimed surface profiles of the LMW beneficial use area; and
  - (12) Sufficient slope measurements, in degrees, to adequately represent the existing land surface configuration and final land configuration of the proposed permit area or amended area.
- (L) LMW beneficial use operations and reclamation plans.

The applicant shall provide maps, plans, cross-sections and a beneficial use narrative. The documents shall

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

explain how the LMW will be stored, transported, placed, compacted, sloped, capped, resoiled and planted with a diverse vegetative cover. The documents shall also include the final location within the proposed permit area and amended area.

(M) For dates of federal rules and federal laws referenced in this rule, see rule 1501:14-1-16 of the Administrative Code.

Effective: 5/15/2015

Five Year Review (FYR) Date: 5/15/2020

Promulgated Under: 119.03

Statutory Authority: 1514.08, 1514.081

Rule Amplifies: 1514.02, 1514.081

Prior Effective Dates: 8/1/05

Draft Rule 1501:14-6-02, dated 1/2/2020.

This is a summary of the changes made to this rule.

Title of rule. “lime mining wastes (LMW)” added for clarification.



**\*\*\*DRAFT - NOT FOR FILING\*\*\***

1/2/2020 Amendment to the title of the rule for clarification.

**1501:14-6-02      Distance limitations on the placement of ~~LMW~~lime mining wastes (LMW).**

- (A) LMW may not be applied as a soil additive within one hundred feet of an intermittent or perennial stream or wetland. This distance may be increased for an exceptionally high value stream or wetland.
- (B) LMW may not be placed within five hundred feet upstream of an existing legitimately used surface source intake or within three hundred feet of an existing legitimately used water well supply or within three hundred feet of an existing developed groundwater spring. For a pre-existing LMW site which is closer than these distances on October 8, 2001, the permittee shall provide a demonstration that the lesser distance will not have an adverse impact upon human health or the environment.
- (C) LMW may not be placed within three hundred feet of an occupied dwelling unless the owner provides a written waiver. Pre-existing LMW sites which are closer to dwellings than three hundred feet on October 8, 2001, are exempt from this requirement.