



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## 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, Dep. Legal Counsel, 614-265-6861

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

Industrial Minerals (IM) – Regulatory Restrictions

Rule Number(s): 1501:14-1-01; 1501:14-1-05; 1501:14-1-08; 1501:14-1-09; 1501:14-1-16;  
1501:14-2-01; 1501:14-2-02; 1501:14-2-03; 1501:14-2-05; 1501:14-2-06; 1501:14-2-08; 1501:14-2-  
10; 1501:14-3-12; 1501:14-3-13; 1501:14-5-01; 1501:14-5-04; 1501:14-6-01; 1501:14-6-02

Date of Submission for CSI Review: March 1, 2024

Public Comment Period End Date: March 16, 2024

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 0 rules (FYR?   )

Amended/ 18 rules (FYR? 6)

Rescinded/ 0 rules (FYR?   )

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 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.

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### **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 eighteen rules that regulate industrial minerals (IM) surface mining to the Common Sense Initiative pursuant to Ohio Revised Code (ORC) section 107.52. DMRM proposes to amend eighteen of these rules as follows:

- Sixteen rules are proposed for amendment to comply with ORC 121.951 to reduce regulatory restrictions. A total of two hundred and ninety-six regulatory restrictions are proposed for removal.
- Two rules are incorporation by reference rules that need to be updated as the publication dates of the Code of Federal Regulations and the United States Code change, which were included in the count of eighteen above.

Six of the eighteen 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 IM surface mining, including permit applications, liability insurance, performance bonds, mapping, and reporting. Five rules from this chapter are proposed for amendment.

- **1501:14-1-01 Definitions.** Contains definitions of terms used in the rules of OAC Chapter 1501:14-1. The proposed amendments would remove regulatory restrictions.
- **1501:14-1-05 Permit transfers.** Sets out the process for transferring permit rights. The proposed amendments would remove regulatory restrictions.
- **1501:14-1-08 Certificate of public liability insurance.** Amplifies the public liability insurance requirement of ORC section 1514.02(A)(13) with provisions regarding the effective date, riders, and proof of insurance. The proposed amendments would remove regulatory restrictions.
- **1501:14-1-09 Payment of fees and filing of performance bond.** 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.
- **1501:14-1-16 Incorporation by reference.** Contains dates of publication of the Code of Federal Regulation and the United States Code for those federal regulations and federal laws that are incorporated by reference in the IM rules and tell the public where these regulations and laws can be found. The proposed amendments would update of the editions of the Code of Federal Regulations and the United States Code.

**Ohio Administrative Code (OAC) Chapter 1501:14-2.** This chapter contains the requirements for mine safety for IM surface operations. Seven rules from this chapter are proposed for amendment.

- **1501:14-2-01 Incorporation by reference of mine safety standards.** 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 would update of the editions of the Code of Federal Regulations and the United States Code.
- **1501:14-2-02 Safety standards governing surface mining operations.** Specifies that certain Mine Safety and Health Administration (MSHA) federal regulations are incorporated by reference into Ohio's IM mine safety rules and that certain MSHA regulations are not incorporated into the IM mine safety rules. The proposed amendment would remove a regulatory restriction.
- **1501:14-2-03 Criteria, standards and procedures governing annual safety performance evaluations of surface mining operations that are inspected by**

- MSHA.** Implements the provisions of ORC sections 1514.40, 1514.41, and 1514.45 regarding performance evaluations of IM surface operations that are inspected by MSHA. The proposed amendments would remove regulatory restrictions.
- **1501:14-2-05 Mine safety inspections of surface mining operations that are inspected by MSHA.** Contains the requirements for conducting a mine safety inspection of an IM surface mining operation that is inspected by MSHA, and for reporting this inspection, as well as the steps that must be taken if the Chief finds a violation of a safety standard, or a condition or practice that could reasonably be expected to cause the death of or imminent serious physical harm to an employee. The proposed amendments would remove regulatory restrictions.
  - **1501:14-2-06 Mine safety training.** Contains the requirements for IM mine safety training in Ohio and explains how this training is coordinated with mine safety audits. The proposed amendments would remove regulatory restrictions.
  - **1501:14-2-08 Training in lieu of employing certified mine foreperson.** Contains the requirements for the detailed training plan under which persons who qualify under the plan may conduct and document examinations at an IM surface mining operation for purposes of 30 CFR Part 56, as amended, as well as the requirements for training persons in accordance with an approved plan. The proposed amendments would remove regulatory restrictions.
  - **1501:14-2-10 Mine safety inspections of surface mining operations that are not inspected by MSHA.** Contains the requirements for conducting a mine safety inspection of an IM surface mining operation that is not inspected by MSHA and for reporting this inspection, as well as the steps that must be taken if the Chief of DMRM finds a violation of a safety standard, or a condition or practice that could reasonably be expected to cause the death of or imminent serious physical harm to an employee. The proposed amendments would remove regulatory restrictions.

**Ohio Administrative Code (OAC) Chapter 1501:14-3.** This chapter contains performance standards for surface IM mining and reclamation. Two rules from this chapter are proposed for amendment.

- **1501:14-3-12 Beneficial quarry fill.** Contains the requirements for using lime mining wastes as a quarry fill. The proposed amendments would remove regulatory restrictions.
- **1501:14-3-13 Controlled placement of lime mining wastes (LMW).** Contains the requirements for the placement, transportation, and compaction of lime mining wastes. The proposed amendments would remove regulatory restrictions.

**Ohio Administrative Code (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. Two rules from this chapter are proposed for amendment.

- **1501:14-5-01 Hydrology.** Contains the requirements for applications for IM surface mining permits that proposed to dewater. The proposed amendments would remove regulatory restrictions.
- **1501:14-5-04 Watercourse variances.** 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. The proposed amendments would remove regulatory restrictions.

**Ohio Administrative Code (OAC) Chapter 1501:14-6.** – This chapter contains permit application requirements for use of and distance limitations on placement of beneficial use lime mining wastes within an industrial minerals permit. Two 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.** Contains the permit requirements for the beneficial use of lime mining wastes in the reclamation of an industrial minerals surface mining operation. The proposed amendments would remove regulatory restrictions.
- **1501:14-6-02 Distance limitations on the placement of LMW.** Contains the distance limits for the placement of lime mining wastes in industrial minerals surface mining reclamation. The proposed amendments would remove regulatory restrictions.

**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.**

- Authorized by: ORC sections 1514.08, 1514.40, 1514.081, 1514.12, 1514.02, 1514.13, 1514.47
- Amplified by: ORC sections 1514.08, 1514.011, 1514.02, 1514.05, 1514.03, 1514.021, 121.71, 121.75, 1514.01, 1514.10, 1514.40, 1514.41, 1514.42, 1514.43, 1514.47, 1514.09, 1514.081, 1514.12. 1514.07, 1514.13

**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 MSHA 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 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 implements a federal requirement, but 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.*

By letter dated January 25, 2024, DMRM Chief Benny McCament provided these rules, by e-mail, to the Ohio Coal Association President Justin Bis, Ohio Aggregates and Industrial Minerals Association (OAIMA) Executive Director Pat Jacomet, and Ohio Environmental Council's Chris Tavenor. Chief McCament requested comments on the rules by February 23, 2024. DMRM received comments from the OAIMA.

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

OAIMA's counsel Brian Barger reached out to ODNR with concerns regarding two of the proposed rules. ODNR's legal counsel met with Mr. Barger to discuss these concerns; as a result, ODNR made additional revisions to the proposed rules to the satisfaction of Mr. Barger and OAIMA.

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 proposed rule changes in this package are being submitted to comply with ORC sections 121.71 to 121.75 regarding incorporation by reference. Updates to the IM Program's two incorporation by reference rules are needed regularly as the dates change for the online versions of the Code of Federal Regulations and/or the U.S. Code. The remaining amendments were made to reduce regulatory restrictions.

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? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

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



**13. 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.

**14. 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 amendments proposed to the IM rules are updates that will not change the way that IM surface mining is regulated. The additional rules proposed for amendments are removing regulatory restrictions.

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

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

*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 15a: The affected business community is all of Ohio's IM surface mining operators.

Answer to questions 15b: 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. The following paragraphs provide more detail regarding this impact:

**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.

**OAC Chapter 1501:14-1.** These rules 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, a permit renewal, or an amendment to the permit.

**OAC Chapter 1501:14-2.** These are mine safety rules related to DMRM inspections and investigations; accident reporting; safety audits and training; certified mine forepersons; and persons who are qualified to conduct safety examinations of surface IM operations. These rules



impose certification, reporting and record-keeping requirements on mine operators in addition to the costs that all mining operations must incur to maintain a safe working environment.

**OAC Chapter 1501:14-3.** The performance standards established in these rules require IM surface mining operators to mine and reclaim in a manner that protects the environment and neighboring properties. These rules contain many specific requirements that require a great deal of time and equipment: to prevent runoff onto adjoining property and to isolate acid-producing materials; create safe permanent ponds and final slopes and highwalls; control the adverse effects of blasting; protect underground water supplies; properly handle lime mining wastes; and, when mining of an area is completed, to replace soil and subsoil and re-plant. The blasting rule contains detailed requirements for conducting blasting in a safe manner, and documenting compliance with seismographic monitoring and the records that must be maintained for each blast.

**OAC Chapter 1501:14-5.** These rules 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 of DMRM to establish a projected cone of depression. The chapter also contains a rule that requires more detailed information to be submitted by operations that are requesting a variance to mine close to certain size watercourses.

**OAC Chapter 1501:14-6.** – These rules set forth permit application requirements for use of and distance limitations on placement of beneficial use lime mining wastes within an industrial minerals permit.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

A total of two hundred and ninety-six regulatory restrictions are proposed for amendment. Mostly to streamline the process and improve readability.

**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.

## **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, ORC 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.

## **IM Rules – Regulatory Restrictions (18 rules total)**

### **Rules with proposed amendments (18 rules)**

1501:14-1-01 Definitions. \* *Removing regulatory restrictions.*

1501:14-1-05 Permit transfers. *Removing regulatory restrictions.*

1501:14-1-08 Certificate of public liability insurance. *Removing regulatory restrictions.*

1501:14-1-09 Payment of fees and filing of performance bond. \* *Removing regulatory restrictions.*

1501:14-1-16 Incorporation by reference. \* *Updating with the most recent dates for the Code of Federal Regulations and the U.S. Code.*

1501:14-2-01 Incorporation by reference of mine safety standards. \* *Updating with the most recent date for the Code of Federal Regulations.*

1501:14-2-02 Safety standards governing surface mining operations. *Removing a regulatory restriction.*

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

1501:14-2-05 Mine safety inspections of surface mining operations that are inspected by MSHA. \* *Removing regulatory restrictions.*

1501:14-2-06 Mine safety training. *Removing regulatory restrictions.*

1501:14-2-08 Training in lieu of employing certified mine foreperson. *Removing regulatory restrictions.*

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

1501:14-3-12 Beneficial quarry fill. *Removing regulatory restrictions.*

1501:14-3-13 Controlled placement of lime mining wastes (LMW). *Removing regulatory restrictions.*

1501:14-5-01 Hydrology. *Removing regulatory restrictions.*

1501:14-5-04 Watercourse variances. *Removing regulatory restrictions.*

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

1501:14-6-02 Distance limitations on the placement of lime mining wastes (LMH). *Removing regulatory restrictions.*

\* 2024 FYR (6 rules)

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**Dated January 2024. Removing regulatory restrictions.**

## **1501:14-1-01 Definitions.**

As used in Chapters 1501:14-1 to 1501:14-6 of the Administrative Code, except as may be otherwise specifically provided in the rules adopted pursuant to Chapter 1514. of the Revised Code:

- (A) "Accident," as used in division (C) of section 1514.40 of the Revised Code, means an accident as defined in paragraph (h) of 30 C.F.R. 50.2.
- (B) "Acid Drainage" means the flow of acid water resulting from a surface mining operation.
- (C) "Acid Producing Material" means any material with a pH of 4.0 or less, or a calcium carbonate ( $\text{CaCO}_3$ ) deficiency of more than five tons of calcium carbonate ( $\text{CaCO}_3$ ) per one thousand tons of material.
- (D) "Acid Water" means any water, the pH of which, as determined by standard methods, is below 6.0.
- (E) "Applicant" means any person who applies for a surface mining permit pursuant to Chapter 1514. of the Revised Code.
- (F) "Application" means a surface mining application for the permit required by Chapter 1514. of the Revised Code and division 1501:14 of the Administrative Code, and which is on a form prescribed by the chief.
- (G) "Aquifer" means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have ability to receive, store, or transmit water.
- (H) "Authorized representative of the miners" means the organization or, if applicable, the individual, authorized by the miners of a surface mining operation as the miners' representative.
- (I) "Beneficial Use" means the use of lime mining wastes within a lime mining and reclamation area for land application when it is utilized for agronomic purposes at standard agronomic rates as determined by standard soil testing, for land reclamation in accordance with Chapter 1514. of the Revised Code and the rules adopted under it, including, but not limited to, use as fill material in quarries, and for any other purposes designated by the chief, including demonstration projects approved by the chief.
- (J) "Building Permit" means a permit issued by a county, township, or municipal governmental authority which authorizes the construction of a commercial, industrial, residential, or public building. For construction of a building for which no building permit is ~~required~~ necessary under the law, detailed plans and specifications may, at the chief's discretion, be accepted in lieu of a building permit.
- (K) "Certified mine foreperson" means the person whom the operator of a surface mining operation places in charge of the conditions and practices at the mine, who is responsible for conducting workplace examinations under 30 C.F.R. part 56, as amended, and who has passed an examination for the position administered by the division of mineral resources management.
- (L) "Chief" means the chief of the division of mineral resources management.
- (M) "Contamination" means the degradation of quality in an underground water supply as a result of surface mining activity under Chapter 1514. of the Revised Code.
- (N) "Contour" means to grade the affected area to a land configuration similar to that which existed prior to any

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mining, sufficient to achieve soil stability and control landslides, erosion, and sedimentation with adequate provisions for drainage appropriate to the intended future use.

- (O) "Dam" means any artificial barrier together with appurtenant works, which either does or may impound water.
- (P) "Delay Interval" means the nominal period of time between the detonation of successive explosive charges.
- (Q) "Dewatering" means the withdrawal of ground water from an aquifer or saturated zone which may result in the lowering of the water level within the aquifer or saturated zone, or a decline of the potentiometric surface within that aquifer or saturated zone.
- (R) "Dike" means any artificial barrier together with appurtenant works that will divert or restrain the flow of a stream or other body of water for the purpose of protecting an area from inundation by flood waters.
- (S) "Diversion" means a channel with a ridge on the lower side which is constructed across the slope and is used for intercepting, directing, or channeling water.
- (T) "Drainage Channel" means a natural or constructed watercourse or channel, having a definite bed and sides or banks, through which water flows.
- (U) "Excavate" means to remove topsoil, overburden, minerals, or incidental coal from a natural deposit in the process of surface mining.
- (V) "Fatality," as used in division (C) of section 1514.41 of the Revised Code, means a death of an individual at a mine.
- (W) "Fill in quarries" means the discrete, controlled placement and compaction of lime mining wastes within the mined area of a quarry which is permitted and bonded under Chapter 1514. of the Revised Code. The purposes of the fill include, but are not limited to, raising the general contour back to an approximate original elevation, backfilling highwalls, creating safety egress areas, and fish and wildlife habitat. "Fill in quarries" does not include random deposition of non-calcined materials.
- (X) "Grade" means to reshape the affected area to a reasonably smooth configuration to achieve soil stability and control landslides, erosion, and sedimentation, with adequate provisions for drainage appropriate to the intended future use.
- (Y) "Ground water" means all water occurring in an aquifer.
- (Z) "Hazardous condition" means an unsafe condition at a surface mining operation that could reasonably be expected to cause death or serious physical harm due to the violation of a safety standard contained in 30 C.F.R. part 56 or 58.
- (AA) "Haul Road" means any road used to transport minerals from the area of land affected.
- (BB) "Highwall" means the steeply inclined unexcavated face of exposed consolidated materials or exposed consolidated overburden in an open cut of a surface mine.
- (CC) "Impervious Material" means a material through which fluid does not readily pass because of low porosity, very small individual pores, or pores that are disconnected.
- (DD) "Incidental to construction work" means the extraction of minerals which is necessary to enable the

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construction to be accomplished, but does not include generalized site development for the future use of commercial, industrial or residential building construction for which no building permit has been issued.

- (EE) "Life-threatening injury," as used in division (D) of section 1514.41 of the Revised Code, means an accident or injury as defined in paragraphs (h)(2) to (h)(12) of 30 C.F.R. 50.2.
- (FF) "Lime Mining Wastes" means residual solid or semisolid materials generated from lime or limestone mining and processing operations, including, without limitation, lime kiln dust, scrubber sludge from kiln operations, lime or limestone materials not meeting product specification, lime hydrating materials, and other lime or limestone mining, processing, or calcining materials associated with lime or limestone mining or processing. "Lime Mining Wastes" does not include materials generated for the manufacture of cement.
- (GG) "Lost-time accident," as used in rule 1501:14-2-09 of the Administrative Code, means the same as a "Non-Fatal Days Lost incident" and an "NFDL incident" as used by MSHA and includes any accident or occupational injury that caused no fatality but that resulted in days away from work or days of restricted work activity for an employee at a surface mining operation.
- (HH) "Mine safety training" means any training relating to mine safety provided by the division of mineral resources management or such other training relating to mine safety as otherwise permitted or required by Chapter 1514. of the Revised Code or these rules.
- (II) "Mining Area" means:
- (1) An area of land affected by the removal of topsoil, overburden, minerals or minerals and incidental coal in the production of such minerals or minerals and incidental coal. Mining areas ~~shall~~ are not ~~be~~ considered ~~as~~ contiguous if connected solely by haul roads;
  - (2) For purposes of application for an exemption for extraction of incidental coal, calculation of production or revenues derived from incidental coal extraction, and compliance with or reporting on an incidental coal exemption, an individual excavation site or pit from which coal, other minerals, and overburden are removed.
- (JJ) "MSHA" means the mine safety and health administration in the United States department of labor.
- (KK) "Occupational injury" means occupational injury as defined in paragraph (e) of 30 C.F.R. 50.2.
- (LL) "Operator" means any person engaged in surface mining who removes minerals, or minerals and incidental coal, from the earth by surface mining or who removes overburden for the purpose of determining the location, quality, or quantity of a mineral deposit. "Operator" also means any person engaged in in-stream mining who removes minerals from the bottom of the channel of a watercourse by in-stream mining.
- (MM) "Peak Design Flow" means the maximum rate of runoff that can be expected to occur at a specific location on the average of once in twenty-five years during a twenty-four hour period, except that where adjoining property may be damaged the peak design flow ~~shall be~~ is the maximum rate of runoff to be expected on the average of once in fifty years during a twenty-four hour period.
- (NN) "Permittee" means an operator who has been issued a surface mining permit by the chief.
- (OO) "Person" means an individual, partnership, corporation, business trust, estate, trust, association, or other legal entity, or any political subdivision, instrumentality or agency of the state or the United States.

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- (PP) "Probable hydrologic impacts" is applicable to the use of lime mining wastes in rule 1501:14-6-01 of the Administrative Code and means the projected result of proposed surface mining operations which may reasonably be expected to change the quantity or quality of the surface and ground water, the flow, timing, or pattern of the surface and ground water, and the stream channel conditions on or off the proposed permit area or amended area.
- (QQ) "Production" means excavating minerals, or minerals and incidental coal, from a natural deposit for the purpose of commercial use or sale.
- (RR) "Quadrangle" means the United States geological survey (U.S.G.S.) 7.5 minute topographic map in which the proposed permit area is located.
- (SS) "Quadrangle Sketch" means that section of the appropriate county road map which clearly shows the location of the permit area or proposed permit area and appears on the map submitted with the application. Appropriate county road maps are those published by the Ohio department of transportation or by the appropriate county engineer.
- (TT) A "qualified person" means a person who has ~~fulfilled the requirements of~~ met compliance with an approved detailed training plan in accordance with division (E) of section 1514.47 of the Revised Code and rule 1501:14-2-08 of the Administrative Code so as to be qualified to conduct and document examinations at a surface mining operation for the purposes of 30 C.F.R. part 56, as amended.
- (UU) "Resoil" means to distribute topsoil and subsoil, or substitute resoiling material.
- (VV) "Restrict" means the use of reasonable means including, but not limited to, fencing, earthen barriers, or confining vegetation to prevent access to areas that pose a danger to the public or to domestic animals.
- (WW) "Rules adopted under," "rules adopted pursuant thereto," "rules thereunder," or "these rules" means all rules contained in Chapters 1501:14-1 to 1501:14-6 of the Administrative Code.
- (XX) "Seedbed" means an area of land prepared, prior to planting, to promote the germination of seed and the growth of seedlings.
- (YY) "Significant" means the addition of any of the following activities when those activities are not currently approved in the permit plan:
- (1) Blasting activities;
  - (2) Dewatering activities;
  - (3) Vertical or horizontal expansion of a permit area that would result in an increase to the geographical area to which the water replacement provisions of rule 1501:14-5-03 of the Administrative Code would apply;
  - (4) The beneficial use of lime mining wastes (LMW); or
  - (5) Other amendments that the chief determines, within the framework of those performance standards contained in Chapter 1514. of the Revised Code, would increase the likelihood that the mining operation may have a negative impact on the public.
- (ZZ) "Slope Angle" means the inclination of a surface from the horizontal, expressed in degrees.



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- (AAA) "Stemming" means the inert material used in a blasthole to confine the gaseous products formed upon explosion.
- (BBB) "Surface mining" means all or any part of a process followed in the production of minerals from the earth or from the surface of the land by surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits, and the incidental removal of coal at a rate less than one-sixth the total weight of minerals and coal removed during the year, but does not include: test or exploration boring; mining operations carried out beneath the surface by means of shafts, tunnels, or similar mine openings; 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; the extraction of minerals, other than coal, from borrow pits for highway construction purposes, provided that the extraction is performed under a bond, a contract, and specifications that substantially provide for and ~~require~~ satisfy reclamation practices consistent with the requirements of Chapter 1514. of the Revised Code; the removal of minerals incidental to construction work, provided that the owner or person having control of the land upon which the construction occurs, the contractor, or the construction firm possesses a valid building permit; 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; routine dredging of a watercourse for purely navigational or flood control purposes during which materials are removed for noncommercial purposes, including activities conducted by or on behalf of a conservancy district, organized under Chapter 6101. of the Revised Code, for flood control purposes that are exempt from permitting ~~requirements~~ under section 10 of the "Rivers and Harbors Act of 1899," 30 Stat. 1151, 33 U.S.C. 403, as amended; or the extraction or movement of soil or minerals within a solid waste facility, as defined in section 3734.01 of the Revised Code, that is a sanitary landfill when the soil or minerals are used exclusively for the construction, operation, closure, and post-closure care of the facility or for maintenance activities at the facility.
- (CCC) "Surface Mining Permit" or "permit" means the permit issued by the chief pursuant to Chapter 1514. of the Revised Code and division 1501:14 of the Administrative Code.
- (DDD) "Surrounding Areas" means those areas within one thousand feet of the beneficial use area or a greater distance based upon site specific characteristics, to allow an adequate description of the geology and quality and quantity of the groundwater and surface water.
- (EEE) "Terrace" means to grade in alternate slopes and plateaus to achieve soil stability and control landslides, erosion, and sedimentation, with adequate provisions for drainage appropriate to the intended future use.
- (FFF) "Topographic Relief" means the difference in elevation between the highest and lowest elevations of the area depicted on any map ~~required~~ submitted pursuant to ~~by~~ Chapter 1514. of the Revised Code and division 1501:14 of the Administrative Code.
- (GGG) "Year" means twelve successive calendar months.
- (HHH) For dates of federal rules and federal laws referenced in this rule, see rule 1501:14-1-16 or rule 1501:14-2-01 of the Administrative Code.

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**Dated February 2024. Removing regulatory restrictions.**

**1501:14-1-05 Permit transfers.**

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

- (1) ~~Submission of an application for transfer of a surface mining permit is necessary for a~~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~~The chief will prescribe forms for the application that request, 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 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 will~~ 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 is to~~ 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.

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**Dated January 2024. Removing regulatory restrictions.**

**1501:14-1-08      Certificate of public liability insurance.**

- (A) Public liability insurance required by division (A)(13) of section 1514.02 of the Revised Code ~~shall be~~ is effective from the date of issuance of the permit until the release of the final portion of the performance bond.
- (B) ~~The public liability insurance policy shall include a~~ A rider requiring that the insurer notify the chief of termination of the policy or failure to renew: is necessary for any public liability insurance policy.
- (C) The permittee's proof of insurance coverage may be submitted on a form provided by the chief or on a form provided by the insurance provider: ~~At a minimum, the proof of insurance form shall~~ that includes, at a minumim include:
- (1) The name of the permittee covered by the policy, or if the insured is not the permittee, the name(s) of the operator(s) or operation(s) covered by the policy;
  - (2) The policy number;
  - (3) The policy period;
  - (4) The amount of coverage; and
  - (5) The name, address, and telephone number of the insurance provider.
- (D) ~~The~~ At the request of the chief, the permittee is to provide proof of insurance. ~~form shall be sent to "Ohio- Department of Natural Resources, Division of Mineral Resources Management, 2045 Morse Road, Building- H, Columbus, Ohio 43229."~~

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**Dated January 2024. Removing regulatory restrictions.**

**1501:14-1-09      Payment of fees and filing of performance bond.**

- (A) ~~The applicant shall file the required~~ Required 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.
- (1) The requirement of division (A) of section 1514.04 of the Revised Code that the applicant file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of ten thousand dollars ~~shall do~~ not apply to permits of twenty or fewer acres issued prior to August 15, 2002. ~~These~~ For these permits, any of the following is to be filed: ~~shall instead 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.
- (2) The requirement of division (A) of section 1514.04 of the Revised Code that, if the amount of land to be affected is more than twenty acres, the applicant file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of five hundred dollars per acre of land to be affected that exceeds twenty acres ~~shall~~ apply to all surface mining applications and to all existing permits regardless of issuance date.
- (B) 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, except that the chief may extend such time for good cause shown.
- (C) All performance bond ~~shall is to~~ be filed in the name of the applicant or permittee and in a format prescribed by the chief and shall meet the requirements for signature specified in paragraph (D) of rule 1501:14-1-04 of the Administrative Code.
- (D) All performance bond ~~shall is to~~ be filed at the address, "Division of Mineral Resources Management, Bonding Section, 2045 Morse Road, Building H, Columbus, Ohio 43229."
- (E) If the performance bond is in the form of a certificate of deposit, the applicant ~~shall is to~~ submit to the chief the original certificate of deposit and the assignment for the certificate of deposit.
- (F) The required fees ~~shall are to~~ be 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.

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***Dated January 2024. 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.***

**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 on the following date(s): for Title 30, July 1, ~~2022~~[2023](#); for Title 40, July 1, ~~2022~~[2023](#). These regulations can generally be found in public libraries or electronically at the website [govinfo.gov/](http://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 2018 edition of the United States Code (U.S.C.), dated January 14, 2019, as supplemented in 2021, effective January ~~3, 2022~~[5, 2023](#). These laws can generally be found in public libraries or electronically at the website [govinfo.gov/](http://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.

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***Dated January 2024. Just before this rule is filed with JCARR, it will be updated with the most recent date for the Code of Federal Regulations.***

**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, ~~2022~~[2023](#), C.F.R. These regulations can generally be found in public libraries or electronically at the website [govinfo.gov/](http://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 annually and updated as pertinent changes take place in 30 C.F.R. and as the publication date of the C.F.R. is updated.

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**Dated January 2024. Removing regulatory restrictions.**

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

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

- (A) The chief annually ~~shall~~ will conduct, in accordance with these rules, a safety performance evaluation of all surface mining operations in the state that are inspected by MSHA.
- (B) Collection of violation data. At the beginning of each state fiscal year, the chief ~~shall~~ will obtain from the MSHA mine data retrieval system the violations per inspection day ("VPID") calculation for the preceding fifteen months for each surface mining operation permitted under Chapter 1514. of the Revised Code.
- (C) Procedures governing safety performance evaluations. If a surface mining operation has a VPID calculation of three or more, the chief ~~shall~~will, pursuant to division (B) of section 1514.41 of the Revised Code, identify the surface mining operation as having three or more violations per day. A surface mining operation identified by the chief as having three or more violations per day ~~shall~~will receive a minimum of two inspections conducted in accordance with division (B) of section 1514.41 and section 1514.43 of the Revised Code for one year following the identification.
- (D) Notification of determination to conduct inspections due to the results of a safety performance evaluation. If a surface mining operation is identified under paragraph (C) of this rule as having three or more violations per day, the chief ~~shall~~will provide written notification to the operator of the operation and, if applicable, the authorized representative of the miners of the operation, that the operation will be inspected pursuant to division (B) of section 1514.41 and section 1514.43 of the Revised Code and as determined by this rule. The notice ~~shall~~will contain:
  - (1) A citation of the relevant provision(s) of the Revised Code and the Administrative Code that require the inspections;
  - (2) A statement that a minimum of two inspections of the operation will be conducted for one year following the identification;
  - (3) A requirement that the operator provide to the chief within thirty days, in writing, the name of the organization identified as the authorized representative of the miners for the operation, if applicable. The operator may provide this name by U.S. mail, facsimile, or electronic mail to the attention of: manager, mine safety program, Columbus office, division of mineral resources management; and
  - (4) The procedure, pursuant to paragraph (E) of this rule, whereby the operator may request that the chief reconsider the decision that the surface mining operation had three or more violations per day.
- (E) Reconsideration by the chief.
  - (1) Within thirty days of receipt of the notification required by paragraph (D) of this rule, a surface mining operator may submit a written request to the chief asking him or her to reconsider the decision that the operation had three or more violations per day.



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- (2) Within fourteen days of the receipt of an operator's request for reconsideration under paragraph (E)(1) of this rule, the chief ~~shall~~will provide the operator and, if applicable, the authorized representative of the miners at the surface mining operation with written notice of his or her decision.
- (3) Within thirty days after receipt of the chief's decision upon reconsideration under paragraph (E)(2) of this rule, the operator may appeal the chief's decision to the reclamation commission in accordance with section 1514.09 of the Revised Code. ~~An operator shall not file~~Before filing an appeal with the reclamation commission of the chief's decision that a surface mining operation had three or more violations per day, ~~without the applicant is to~~ first ~~requesting~~request reconsideration as provided by paragraph (E)(1) of this rule. The filing of a notice of appeal to the reclamation commission does not operate as a stay of any order, determination, or decision of the chief.

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*Dated January 2024. Removing regulatory restrictions.*

## **1501:14-2-05      Mine safety inspections of surface mining operations that are inspected by MSHA.**

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

(A)

- (1) If a surface mining operation is inspected by MSHA, the chief ~~shall~~will conduct inspections of the operation only under the following circumstances:
  - (a) The operation is identified through a safety performance evaluation conducted under paragraph (B) of section 1514.41 or section 1514.45 of the Revised Code or rule 1501:14-2-03 of the Administrative Code as having three or more violations per day;
  - (b) A fatality of a miner or a life-threatening injury of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, as determined by the chief under division (C) or (D) of section 1514.41 of the Revised Code and paragraphs (C) and (D) of rule 1501:14-2-04 of the Administrative Code; or
  - (c) The chief determines, pursuant to paragraph (B)(3) of this rule, that the operator has failed to comply with a safety standard that was being violated and the chief, at his or her discretion and based on the severity of the violation or other safety factors, conducts additional mine safety inspections pursuant to paragraph (B)(3)(b) of this rule.
- (2) If, pursuant to paragraphs (A)(1) of this rule, the chief conducts a mine safety inspection of a surface mining operation that is also inspected by MSHA, the chief ~~shall~~will enforce the safety standards established and incorporated by reference in Chapter 1514. of the Revised Code and these rules but ~~shall~~ only review the mine safety training plan required under 30 C.F.R. part 46 insofar as to ensure that the operation has such a training plan.

(B)

- (1) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, if, during a mine safety inspection, the chief finds a violation of a safety standard, the chief ~~shall, in writing, require~~will write a violation that directs the operator to comply with the standard that is being violated within a reasonable period of time.
- (2) If the chief finds a violation of a safety standard, the chief ~~shall~~will return to the surface mining operation after a reasonable period of time only to determine if the operator has complied with the standard that was being violated.
- (3) If the chief determines, under paragraph (B)(2) of this rule, that the operator has failed to comply with the standard that was being violated:
  - (a) The chief ~~shall~~will take appropriate action, if necessary, in the form of an order of the chief to obtain compliance; and

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- (b) The chief may, at his or her discretion and based on the severity of the violation or other safety factors, conduct additional mine safety inspections of the entire surface mining operation pursuant to this rule.
- (C) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, after completion of a mine safety inspection of a surface mining operation, the chief ~~shall~~will prepare a report that:
- (1) Describes the general conditions of the surface mining operation;
  - (2) Lists any hazardous conditions at the operation;
  - (3) Lists any violations of the safety standards established or incorporated by reference in these rules; and
  - (4) Describes the nature and extent of any hazardous condition or violation found, the corresponding remedy for each hazardous condition or violation, and a reasonable period of time to remedy the hazardous condition or to comply with the safety standard that is being violated.
- (D) The chief ~~shall~~will provide two copies of the report prepared under paragraph (C) of this rule to the operator. The operator ~~shall~~is to post one copy of the report at the operation for review by the employees of the operation.
- (E)
- (1) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, not later than ten days after receipt of a report under paragraph (D) of this rule, the operator may submit a written request to the chief for a meeting with the chief to review the findings contained in the report.
  - (2) Upon receipt of a request, the chief ~~shall~~will review the report and schedule a meeting with the operator. Within a reasonable period of time after the meeting, the chief ~~shall~~will make a written determination concerning the findings contained in the report and provide one copy of the determination to the operator of the surface mining operation and one copy of the determination to an authorized representative of the miners at the operation. If the chief makes a determination that affirms the findings contained in the report, the chief's determination constitutes an order of the chief for purposes of Chapter 1514. of the Revised Code and these rules.
- (F) ~~An~~Before an operator ~~shall not~~may appeal the contents of a report prepared under paragraph (C) of this rule to the reclamation commission, ~~without first submitting~~ the operator is to first submit a written request for a review by the chief as provided in paragraph (E)(1) of this rule. If, upon review of the findings in the report, the chief makes a determination that affirms the findings in the report, then the operator may appeal this determination to the reclamation commission in accordance with section 1514.09 of the Revised Code. The filing of a notice of appeal to the reclamation commission does not operate as a stay of any order, determination, or decision of the chief.
- (G)

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- (1) If, during a mine safety inspection conducted under section 1514.41 of the Revised Code or this rule or during a safety audit conducted under section 1514.42 of the Revised Code, the chief finds a condition or practice at an operation that could reasonably be expected to cause the death of or imminent serious physical harm to an employee of the operation, the chief immediately ~~shall~~ will issue orders to:
  - (a) Safeguard the employees;
  - (b) Notify the operator of the condition or practice; and
  - (c) Require the operator to abate the condition or practice within a reasonable period of time.
- (2) In all situations under paragraph (G)(1) of this rule, the chief may ~~require~~ direct the operation to cease in the area in which the condition or practice is occurring or may ~~require~~ direct the entire operation to cease, if necessary, until the condition or practice that could reasonably be expected to cause death or serious physical harm is eliminated.

(H)

- (1) The chief ~~shall~~ will complete a report that describes:
  - (a) The condition or practice found under paragraph (G) of this rule;
  - (b) The action taken to abate the condition or practice, if applicable pursuant to paragraph (G)(1)(c) of this rule, or to eliminate the condition or practice, if applicable pursuant to paragraph (G)(2) of this rule; and
  - (c) The period of time that was given to abate or eliminate the condition or practice, as applicable.
- (2) The chief ~~shall~~ will provide two copies of the report to the operator. The operator ~~shall~~ is to post one copy of the report at the operation for review by the employees of the operation.

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

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**Dated January 2024. Removing regulatory restrictions.**

**1501:14-2-06      Mine safety training.**

- (A) Upon the request of an operator, the chief ~~shall~~will conduct mine safety training for the employees of that operator.
- (B) The chief may conduct one safety audit at a surface mining operation annually if the operator of the operation has requested the division to conduct mine safety training for that year. The safety audit ~~shall~~will be conducted at the surface mining operation where the miners requiring training are employed and ~~shall~~will not continue more than one day. Subject to the availability of mine safety staff and resources, the chief ~~shall~~will conduct additional safety audits at any surface mining operation if requested by the operator of the operation. All safety audits ~~shall~~are to be scheduled at a time to which the chief and the operator mutually agree and ~~shall~~ be conducted in accordance with section 1514.42 of the Revised Code.
- (C) Mine safety training ~~shall~~will be conducted in accordance with these rules and ~~shall~~will emphasize the standards established and incorporated by reference in these rules and include any other content that the chief determines is beneficial.

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**Dated January 2024. Removing regulatory restrictions.**

## **1501:14-2-08      Training in lieu of employing certified mine foreperson.**

- (A) In lieu of employing a certified mine foreperson in accordance with divisions (A) to (C) of section 1514.47 of the Revised Code and rule 1501:14-2-07 of the Administrative Code, the operator of a surface mining operation may, in accordance with division (D) of section 1514.47 of the Revised Code and this rule, submit to the chief a detailed training plan under which persons who qualify under the plan may conduct and document examinations at the surface mining operation for purposes of 30 C.F.R. part 56, as amended.
- (1) To be eligible to participate in a training plan to become qualified under this rule, a person ~~shall-is to~~ be able to read and write the English language and ~~shall~~ have had at least one year's experience working with or under the direction of a certified mine foreperson.
- (2) The detailed training plan ~~shall-is to~~ contain:
- (a) The name, address, state and MSHA identification number of the operation;
  - (b) The name, position and work experience of each employee to be qualified under the plan;
  - (c) The name, position and work experience of each instructor who will be conducting training under the plan;
  - (d) An outline of the content for initial training;
  - (e) An outline of the content for continuing education; and
  - (f) An explanation of how the operator will provide documentation to the chief pursuant to paragraph (C)(2) of this rule.
- (3) Training provided under the plan ~~shall-will~~ address all of the following subject matter:
- (a) Identification and correction of hazards found by the qualified person;
  - (b) Reporting, documentation and follow up procedures to be followed by the qualified person concerning hazards and corrective actions;
  - (c) Safe work practices;
  - (d) Accident prevention, investigation, reporting and documentation;
  - (e) Medical care for injured miners;
  - (f) Training requirements under Chapter 1514. of the Revised Code and rules adopted pursuant thereto;
  - (g) Duties of a qualified person; and
  - (h) Legal provisions Requirements set forth in Chapter 1514. of the Revised Code and all mine safety rules adopted pursuant thereto.
- (4) The length of initial training ~~shall-will~~ be a minimum of thirty-two hours, ~~which shall~~ include eight hours of in-class training and twenty-four hours of on-the-job training. The training hours specified need not be completed consecutively. Continuing education ~~shall-will~~ be a minimum of four hours each year.

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- (B) The chief ~~shall~~will review the plan and determine if the plan complies with ~~the requirements established in~~ these rules. The chief ~~shall~~will approve or not approve the plan and notify the operator, in writing, of his or her decision.
- (1) A plan not approved by the chief ~~shall~~will be returned to the operator with an explanation of the reason(s) for non-approval.
  - (2) Any changes to an approved training plan ~~must are to~~ be submitted to the chief in writing and approved by the chief in writing prior to implementation.
  - (3) A copy of all approved training plans ~~shall are to~~ be kept at the mine site and made available to the chief upon request.
- (C) After a detailed training plan is approved by the chief, an operator may train persons in accordance with the plan.
- (1) When a qualified person is added to or removed from the list of persons who qualify under an approved training plan, the operator ~~shall is to~~ submit, in writing, within thirty days, an updated list of qualified persons at that operation to the chief.
  - (2) When a person at an operation completes initial and annual training under this rule to become or to remain qualified under the approved plan, the operator ~~shall is to~~ document such training, in writing, to the chief.



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**Dated January 2024. Removing regulatory restrictions.**

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

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

(A)

- (1) If a surface mining operation is not inspected by MSHA, the chief ~~shall~~will conduct mine safety inspections of the operation as follows:
  - (a) A minimum of two inspections annually; or
  - (b) If a fatality of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, as determined by the chief under division (C) of section 1514.41 of the Revised Code and paragraphs (B) and (C) of rule 1501:14-2-09 of the Administrative Code, a minimum of one inspection every three months for two years following the fatality; or
  - (c) If a life-threatening injury of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, as determined by the chief under division (D) of section 1514.41 of the Revised Code and paragraphs (B) and (C) of rule 1501:14-2-09 of the Administrative Code, a minimum of one inspection every three months for one year following the life-threatening injury.
- (2) The chief ~~shall~~will conduct mine safety inspections to enforce the safety standards established and incorporated by reference in Chapter 1514. of the Revised Code and these rules and to review for compliance the mine safety training plan ~~set forth in~~required under 30 C.F.R. part 46.
- (3) When the chief conducts a mine safety inspection pursuant to paragraph (A)(1) of this rule, the operator ~~shall is to~~, during the inspection, provide the chief, in writing, the name of the organization identified as the authorized representative of the miners for the operation, if applicable.

(B)

- (1) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, if, during a mine safety inspection, the chief finds a violation of a safety standard, the chief ~~shall~~will, in writing, require the operator to comply with the standard that is being violated within a reasonable period of time.
- (2) If the chief finds a violation of a safety standard, the chief ~~shall~~will return to the surface mining operation after a reasonable period of time to determine if the operator has complied with the standard that was being violated.
- (3) If the chief determines, under paragraph (B)(2) of this rule, that the operator has failed to comply with the standard that was being violated:
  - (a) The chief ~~shall~~will take appropriate action in the form of an order of the chief to obtain compliance if necessary; and
  - (b) The chief may, at his or her discretion and based on the severity of the violation or other safety factors, conduct additional mine safety inspections of the entire surface mining operation pursuant to this rule.

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- (C) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, after completion of a mine safety inspection of a surface mining operation, the chief ~~shall~~will prepare a report that:
- (1) Describes the general conditions of the surface mining operation;
  - (2) Lists any hazardous conditions at the operation;
  - (3) Lists any violations of the safety standards established or incorporated by reference in these rules; and
  - (4) Describes the nature and extent of any hazardous condition or violation found, the corresponding remedy for each hazardous condition or violation, and a reasonable period of time to remedy the hazardous condition or to comply with the safety standard that is being violated.
- (D) The chief ~~shall~~will provide two copies of the report prepared under paragraph (C) of this rule to the operator. The operator ~~shall~~is to post one copy of the report at the operation for review by the employees of the operation.
- (E)
- (1) Except as otherwise provided in section 1514.44 of the Revised Code and paragraph (G) of this rule or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, not later than ten days after receipt of a report under paragraph (D) of this rule, the operator may submit a written request to the chief for a meeting with the chief to review the findings contained in the report.
  - (2) Upon receipt of a request, the chief ~~shall~~will review the report and schedule a meeting with the operator. Within a reasonable period of time after the meeting, the chief ~~shall~~will make a written determination concerning the findings contained in the report and provide one copy of the determination to the operator of the surface mining operation and one copy of the determination to an authorized representative of the miners at the operation. If the chief makes a determination that affirms the findings contained in the report, the chief's determination constitutes an order of the chief for purposes of Chapter 1514. of the Revised Code and these rules.
- (F) ~~An operator shall not~~ Before appealing the contents of a report prepared under paragraph (C) of this rule to the reclamation commission, the operator is to ~~without~~ first submitting a written request for a review by the chief as provided in paragraph (E)(1) of this rule. If, upon review of the findings in the report, the chief makes a determination that affirms the findings in the report, then the operator may appeal this determination to the reclamation commission in accordance with section 1514.09 of the Revised Code. The filing of a notice of appeal to the reclamation commission does not operate as a stay of any order, determination, or decision of the chief.
- (G)
- (1) If, during a mine safety inspection conducted under section 1514.41 of the Revised Code or this rule or during a safety audit conducted under section 1514.42 of the Revised Code, the chief finds a condition or practice at an operation that could reasonably be expected to cause the death of or imminent serious physical harm to an employee of the operation, the chief immediately ~~shall~~will issue orders to:
    - (a) Safeguard the employees;
    - (b) Notify the operator of the condition or practice; and

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

(2) In all situations under paragraph (G)(1) of this rule, the chief may ~~require-direct~~ the operation to cease in the area in which the condition or practice is occurring or may ~~require-direct~~ the entire operation to cease, if necessary, until the condition or practice that could reasonably be expected to cause death or serious physical harm is eliminated.

(H)

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

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

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

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

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

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

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**Dated January 2024. Removing regulatory restrictions.**

## **1501:14-3-12 Beneficial quarry fill.**

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~~is to transport, backfill and compact where applicable to ensure stability. The reclaimed surface ~~shall~~is to 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~~is to be revegetated in accordance with this chapter. All exposed slopes ~~shall~~are to be constructed to eighteen degrees from the top of the fill to the bottom of the quarry floor with the appropriate earthen cover.

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**Dated January 2024. Removing regulatory restrictions.**

**1501:14-3-13      Controlled placement of lime mining wastes (LMW).**

Transportation, placement, and compaction.

- (A) When transporting, placing and compacting LMW, the permittee ~~shall~~is to comply with all applicable emission controls required by Chapter 3704. of the Revised Code and the rules thereunder;
- (B) LMW ~~shall~~is to be placed in a controlled manner to prevent mass movement;
- (C) The placement area ~~shall~~is to be constructed to minimize the infiltration of water;
- (D) The placement area ~~shall~~is to be within the permit, shown as affected or proposed to be affected, and bonded;
- (E) The final configuration ~~shall~~is to be compatible with the natural drainage pattern and surroundings and suitable for intended uses;
- (F) The design of the LMW placement area ~~shall~~is to 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.

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## **1501:14-5-01 Hydrology.**

Except as provided in paragraph (C) of this rule, the following are to be included in each application for a permit that proposes to dewater ~~shall include the following~~:

- (A) A hydrologic map consisting of a single map using the most recent USGS 7.5 minute topographic maps at a scale of 1:24,000 as a base or other approved format ~~that shall show~~ing all of the following:
- (1) The proposed permit area;
  - (2) A line identifying the area encompassing a four mile radius from the boundary of the proposed permit area, to be known as the hydrologic study area;
  - (3) The location of the cross-sections required under paragraph (B)(5) of this rule;
  - (4) The location of the selected water supply wells identified in paragraph (B)(4)(a) of this rule and other water sources used for domestic, agricultural, or industrial use including an assigned identification number; and
  - (5) Any well, well field, reservoir, river, water source used for a public water supply or facility registered under section 1521.16 of the Revised Code on or within the hydrologic study area.
  - (6) ~~The chief may require~~ A additional information within or beyond the hydrologic study area be shown on the map if such identification is necessary based on site-specific conditions.
- (B) A hydrogeologic description in sufficient detail to determine the hydrologic cone of depression for the proposed operation, which:
- (1) ~~The description shall~~ includes a general statement of the geology within the proposed permit and hydrologic study area down to and including the deeper of either the first stratigraphic unit below the lowest mineral deposit to be mined or any aquifer below the lowest mineral deposit to be mined. ~~It shall also include~~ Additionally, the areal and structural geology of the permit and hydrologic study area, and other parameters which may affect the occurrence, availability, movement, quantity, and quality of potentially affected ground waters are to be included. The general statement will ~~and shall~~ be based on information available to the applicant from test borings, core drillings, well logs, and geologic literature and practices.
  - (2) ~~The description shall~~ contains information available in the public domain related to the ground water hydrology for the proposed permit and hydrologic study area, including, at a minimum:
    - (a) The elevation and the horizontal extent of the aquifer(s), intervening lithology, and overburden;
    - (b) The lithology and thickness of the aquifer(s);
    - (c) Known uses of the water in the aquifer(s);
    - (d) The elevation of water in the mineral deposit(s), and each water-bearing stratum above and below the mineral deposit;
    - (e) The transmissivity of the aquifer(s);

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- (f) The storativity of the aquifer(s);
  - (g) The hydraulic conductivity of the aquifer(s);
  - (h) The specific yield of unconfined aquifer(s);
  - (i) The location and elevation of any existing dewatering sumps (including state plane coordinates and north american datum (NAD) year); and
  - (j) The rate of discharge of any currently registered water withdrawals shown pursuant to paragraph (A)(5) of this rule.
- (3) ~~The description shall~~ include a listing of the published information and data used in preparation of the items in paragraphs (B)(1) and (B)(2) of this rule, and copies of the unpublished records and data used in preparation of these items including, but not limited to, core descriptions, cutting descriptions, stratigraphic descriptions, and pump or slug test records.
- (4) ~~The description shall~~ contain a water supply inventory, representing all aquifers. ~~The inventory shall be submitted in a format prescribed by the chief, and shall include~~ ing, at a minimum:
- (a) A listing of water sources in the proposed permit and hydrologic study area as shown pursuant to paragraphs (A)(4) and (A)(5) of this rule. The representative water sources selected ~~shall are be chosen~~ to include recently drilled wells, represent all aquifers and producing zones within the aquifers, and reflect a uniform geographical distribution of wells within the study area. ~~The inventory shall include~~ The inventory information also includes: all of the existing water wells if there are fewer than one hundred wells or, if there are more than one hundred wells within the study area, ~~the inventory shall include~~ one hundred wells plus twenty-five per cent of those wells in excess of one hundred but ~~shall not exceed more than~~ a total of three hundred. For each water well, include a list of the following: The listing shall include to the extent available the:
    - (i) Map identification number assigned under paragraph (A)(4) of this rule;
    - (ii) Ohio department of natural resources, division of water resources number assigned to the log form ~~required to be~~ filed under section 1521.05 of the Revised Code;
    - (iii) Township;
    - (iv) Year drilled;
    - (v) State plane coordinates (including NAD year);
    - (vi) Surface elevation of the well (feet);
    - (vii) Total depth of the well in feet below the land surface;
    - (viii) Depth to bedrock (feet);
    - (ix) Description of unconsolidated material;
    - (x) Static water level of the well in feet below the land surface;
    - (xi) Casing length (feet);



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(xii) Lithology of the screen interval/open borehole;

(xiii) Length of any well screen (feet);

(xiv) Test rate (gallons per minute);

(xv) Duration of test; and

(xvi) Drawdown (feet);

(b) A listing of the location and type of any public water supply sources on the permit and within the hydrologic study area; and

(c) A copy of the division of water resources well logs for the selected wells.

(d) An applicant may, prior to submission of an application, request in writing, a reduction of the number and/or extent of the submittals required-set forth in paragraph (B)(4) of this rule. The request may be granted only if the chief makes a written determination that this reduction will not diminish the level of accuracy in the ground water model. If there is a disagreement as to the amount or extent of the water resources information necessary, the chief shall-will consult with the chief of the division of water resources prior to determining the final extent of data necessary. If the chief grants a reduction, the written request and determination shall-are to be submitted with the permit application.

(5) ~~The application shall~~ Contains a minimum of two perpendicular hydrogeologic cross-sections of the same scale for the study area based on available information which and at a minimum ~~shall~~:

(a) ~~Be~~ Are of uniform horizontal scale;

(b) ~~Be~~ Are of uniform vertical scale;

(c) Depict the information required-set forth in paragraphs (B)(2)(a), (B)(2)(b), (B)(2)(d), and (B)(2)(i) of this rule;

(d) Intersect the center of the proposed operation; and

(e) Include the data points used to construct the cross section.

(6) Where information required-to be included in the water supply inventory of paragraph (B)(4) of this rule is unobtainable, the application is to include a statement to that effect ~~shall be submitted~~, giving the reasons therefor.

(C) Ground water model submitted by the applicant.

An applicant ~~for a permit~~ may choose to submit a ground water model with ~~his or her~~ their application ~~for a permit~~ that defines the projected cone of depression for the proposed operation. ~~The model must~~ accurately reflects the ground water flow conditions associated with the hydrologic study area, and ~~is~~ be consistent with ASTM international standards. The website for ASTM international is <http://www.astm.org/>. ~~The submission shall include~~ Detailed explanations of the hydrologic and geologic parameters used to construct the model are to be included in the submission and ~~the~~ model results ~~must be~~ submitted in a format prescribed by the chief.

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A ground water model submitted to the chief ~~must is to~~ be a three-dimensional ground water flow model utilizing finite difference modeling software such as MODFLOW. MODFLOW is available from the U.S. geological survey at the website <http://water.usgs.gov/nrp/gwsoftware/modflow.html>. An applicant may request the chief to accept a two-dimensional ground water flow model using finite difference software, provided the chief determines, based on written justification submitted with the request, that the model will accurately represent the ground water flow in the hydrologic study area.

### (D) Staging of the projected cone of depression.

- (1) An applicant for a permit may request the chief to establish the projected cone of depression in stages to reflect the development of the dewatering operations over the life of the proposed permit. Such staged cone of depression ~~shall will~~ reflect a maximum of four vertical or horizontal sump locations within the proposed permit area. For each stage, the applicant ~~shall is to~~ identify the sump location and elevation and the part of the permit to be dewatered.
  - (2) If the applicant submits a staged ground water model under paragraph (C) of this rule, the projected cones of depression ~~shall are to~~ be depicted on the map(s) submitted under paragraph (A) of this rule. The responsibility for water replacement within the cone of depression provided in division (B) of section 1514.13 of the Revised Code will be based on the cones of depression established by the chief at the time of permit issuance. For the purposes of division (B) of section 1514.13 of the Revised Code, where horizontal staging of the cone of depression is accepted for a proposed permit area, the cone of depression applied to water replacement responsibilities will be based on the cumulative boundary of the cones of depression of the permit area affected at the time of the complaint.
  - (3) If the projected cone of depression is staged, the ~~permittee-applicant must is to~~ identify the exact location, elevation, and pumping rate of the dewatering sump(s) for the surface mining operation on each annual map ~~required-submitted~~ under section 1514.03 of the Revised Code. The ~~permittee-applicant must is to~~ notify the chief in writing at least sixty days prior to altering the horizontal or vertical location of the dewatering sump.
- (E) For applications that include a ground water model submitted under paragraph (C) of this rule and meet all other permit requirements of Chapter 1514. of the Revised Code, the chief may issue a surface mining permit conditioned on final review and approval of the ground water model, provided the applicant submits a ground water model pursuant to paragraph (C) of this rule that also contains a preliminary regulatory ten-foot cone of depression map based upon guidelines established by the chief. The permittee shall comply with the final cone of depression as established by the chief.

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## **1501:14-5-04      Watercourse variances.**

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 V~~variance ~~requests are to be~~shall submitted ~~a request~~ on forms prescribed by the chief ~~and~~-. ~~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~~will 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~~will 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.

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**Dated January 2024. Removing regulatory restrictions.**

## **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~~applies 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 is 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 is to~~ 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, ~~and-~~ and- ~~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 are to~~ 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 will~~ 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 are to~~ 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 is to~~ 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 is to~~ 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 is to~~ 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.

### **(2) Characterization.**

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- (a) Characterization data for a proposed new LMW processing facility. The applicant ~~shall~~is to 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.<sup>27</sup> ~~The applicant shall and~~ 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~~is to 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 D3987-12 method. The ASTM international method ~~shall~~is to 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 <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~~necessary to be analyzed at the discretion of the chief. The initial method chosen for each parameter ~~shall~~is to 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~~is to submit to the chief annual representative waste data. All annual waste characterization samples ~~shall~~are to 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 is to ~~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~~are to 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;
  - (g) Chromium;
  - (h) Copper;
  - (i) Fluoride;

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- (j) Iron;
  - (k) Lead;
  - (l) Manganese;
  - (m) Mercury;
  - (n) pH;
  - (o) Selenium;
  - (p) Sulfates;
  - (q) Total dissolved solids;
  - (r) Zinc;
  - (s) Beryllium (analysis ~~required~~necessary only if plant's fuel includes shredded tires);
  - (t) Total organic carbon (analysis ~~required~~necessary only if plant's fuel includes shredded tires);
  - (u) Silver; and
  - (v) Additional parameters that may be ~~required~~directed to be analyzed at the discretion of the chief.
- (4) Additional ~~requirements~~direction for agronomic use. For LMW proposed for agronomic use within the permit area, the applicant ~~shall~~is to 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~~direction for use as a low permeability material. For LMW proposed to be used as a low permeability material, the applicant is to ~~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 ~~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~~necessary volume, thickness (if layered), and areal extent of the LMW material;

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- (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 that~~ will include LMW as a beneficial use as part of the reclamation ~~is to 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 ~~is to shall~~ be prepared in the manner ~~required-set forth in by~~ paragraphs (D) to (G) of this rule, and conform to the following:

- (1) ~~Provided to the chief~~ 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 will~~ 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-set forth~~ 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 is to~~ 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 will~~ not be approved by the chief until this information is made available in the application and deemed acceptable.

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

- (1) Each application ~~is to 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 ~~is to 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, in the description,~~ 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-set forth in by~~ paragraph (K) of this rule;
  - (b) The information obtained from test borings under paragraph (D)(3) of this rule; and
  - (c) Other sources approved by the chief based upon site-specific conditions.
- (3) Each application for a permit ~~is to shall~~ contain the results of test borings conducted on the area of land to be mined, when ~~required requested~~. Test borings or core samples for the proposed LMW beneficial use area ~~shall are to~~ be collected and analyzed down to and including the stratum below the elevation of the industrial mineral to be mined. Individual drilling reports ~~shall are to~~ be furnished for each test boring or core sampling and ~~shall~~ contain the location of subsurface water if encountered.

## **(E) Ground water information.**



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- (1) The application ~~is to 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~~ directed by division (A) of section 1514.13 of the Revised Code, the applicant ~~is to 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 ~~is to 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 is to~~ 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
    - (vi) Name of the owner of the well.
- (3) If any of the information ~~required-set forth~~ in the water supply inventory of paragraph (E)(2)(a) of this rule is unobtainable, the applicant is to submit a statement to that effect ~~shall be submitted~~, giving the reasons therefor.
- (4) The application ~~is to 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 are to~~, as a group, represent all known aquifers



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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 is to ~~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 is to ~~must~~ be collected prior to implementation of the post-reclamation ground water monitoring plan. This background ground water quality data is to ~~shall~~ be established in accordance with procedures contained in the post-reclamation ground water monitoring plan ~~required~~ set forth under paragraph (G)(2) of this rule.
- (c) The measurement of static water level or discharge is to ~~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~~ are to 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;
  - (xiv) PH;
  - (xv) Selenium;
  - (xvi) Silver;
  - (xvii) Sulfates;
  - (xviii) Total dissolved solids;

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(xix) Zinc;

(xx) Beryllium (analysis ~~required-necessary~~ only if plant's fuel includes shredded tires);

(xxi) Total organic carbon (analysis ~~required-necessary~~ only if plant's fuel includes shredded tires);  
and

(xxii) Additional parameters that may be ~~required-necessary~~ to be analyzed at the discretion of the chief.

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

(6) The chief will provide a form on which results of water quality analyses and measurements prescribed in this rule ~~shall~~are to 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~~are to 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~~are to be sampled. The surface water to be sampled ~~shall~~are to include the receiving stream, waterway, or water body if such surface water is present. The description is to ~~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~~are to be analyzed according to the methodology specified in 40 C.F.R. part 136.

(a) Surface water information ~~shall~~includes the following water quality data in order 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;

(vii) Cooper;

(viii) Fluoride;

(ix) Iron;

(x) Lead;

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

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

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

(G) Ground water and surface water monitoring plans.

The applicant ~~is to~~ 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~~ will 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~~ will be implemented.

(1) Ground water monitoring plan during active operation.

If the ground water flow conditions, as ~~required~~ set forth in ~~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 ~~is to~~ 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~~ necessary if determined to be warranted by the chief. The plan ~~shall~~, at a minimum, is to include:

- (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

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approved by the chief based upon a suitable justification by the applicant; and

- (c) The ground water level information ~~is to 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 ~~is to shall~~ include a post-reclamation ground water monitoring plan that is based upon the information ~~required as set forth in under~~ paragraph (E) of this rule and upon the analysis of all baseline hydrologic, geological and other information in the permit application. The plan ~~is to 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 ~~is to shall~~ be maintained a minimum of five years after reclamation.

- (a) At a minimum, the monitoring parameters ~~shall are to~~ include:

- (i) Alkalinity;
- (ii) Chloride;
- (iii) Lead;
- (iv) Sulfate;
- (v) Total dissolved solids; and
- (vi) Additional parameters that the chief may ~~require direct~~ 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 will~~ determine the specific ground water quality indicator parameters to be included in the ground water monitoring plan during the post-reclamation period.

- (b) ~~The G~~ground water sampling frequency ~~shall is to occur be~~ quarterly. The chief may ~~require direct~~ 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 Also included in 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;
- (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.

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- (d) The data resulting from post-reclamation ground water monitoring ~~is to 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 ~~is to shall~~ be initiated after the ground water levels have stabilized following the cessation of dewatering activities. The stabilization of ground water levels ~~shall are to~~ be determined by collection of water level measurements from the monitoring points used in the operational ground water monitoring plan. The operator ~~is to 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 will~~ 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 ~~is to shall~~ include a surface water monitoring plan based upon the analysis of the hydrologic, geologic and other information in the permit application. The plan ~~is to 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 ~~is to 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 are to~~ be collected from the sump or the outfall on a quarterly basis. The chief may ~~require direct~~ 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 ~~is to 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 ~~is to 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 ~~including--~~ ~~The parameter list shall~~, at a minimum, ~~include~~:
    - (a) Alkalinity;
    - (b) Chloride;
    - (c) Lead;
    - (d) Sulfate; and
    - (e) Total dissolved solids;
  - (iii) During active operation, the point source discharge(s) ~~shall are to~~ be monitored in accordance with 40 C.F.R. parts 122 and 123, and ~~in accordance with as required by~~ the "National Pollutant Discharge Elimination System" permitting authority;

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- (iv) If the chief determines it is necessary, additional surface water parameters ~~shall~~will 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-set forth~~ in paragraph (G)(3)(b)(ii) of this rule ~~shall~~will 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 ~~is to 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~~ing 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 is to, on a quarterly basis,~~ identify the surface water quality parameters to be monitored, sampling locations and frequency, ~~unless. The frequency standard shall be quarterly;~~ ~~however~~ the chief ~~may~~increases 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 are to~~ 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 ~~is to 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 ~~including. The parameter list shall~~ at a minimum, ~~include~~:
    - (a) Alkalinity;
    - (b) Chloride;
    - (c) Lead;
    - (d) Sulfate; and
    - (e) Total dissolved solids;
  - (iii) If the chief determines it is necessary, additional surface water parameters ~~shall~~will 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

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post-reclamation monitoring period. If prescribed by the chief, additional monitoring parameters beyond those ~~required-set forth~~ in paragraph (G)(4)(b)(ii) of this rule ~~shall-will~~ be analyzed on a quarterly basis;

- (iv) For the surface water monitoring plan, the five-year post-reclamation monitoring period ~~shall-will~~ 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-will~~ 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 ~~is to 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 ~~is to 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 ~~is to 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-as set forth in under~~ paragraphs (D) to (F) of this rule ~~is to 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-is to~~ 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 ~~is to 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-necessary under by~~ state law. The map(s) ~~shall-are to~~ comply with the standards set forth in Chapter 1514. of Revised Code and division 1501:14 of the Administrative Code and ~~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-directed~~ by the chief based upon site-specific factors which result in a determination by the



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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. The applicant is to provide aAt 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 ~~is to shall~~ provide maps, plans, cross-sections and a beneficial use narrative. The documents ~~shall will~~ explain how the LMW will be stored, transported, placed, compacted, sloped, capped, resoiled and planted with a diverse vegetative cover. The documents ~~shall will~~ 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.**



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**Dated February 2024. Removing regulatory restrictions.**

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

- (A) LMW ~~may-is~~ not to 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-is~~ not to 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-is to~~ provide a demonstration that the lesser distance will not have an adverse impact upon human health or the environment.
- (C) LMW ~~may-is~~ not to 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.