

OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION

****POLICY/PROCEDURE DIRECTIVE****

Industrial Minerals 91-1

Subject: Regulation of topsoil operations
Effective: January 14, 1991
Purpose: To provide guidelines for the regulation of topsoil operations under Chapter 1514 of the Revised Code.

Ohio Revised Code Section 1514.01(A) defines surface mining. The statutory definition, while encompassing most operations which produce minerals excavated from the earth or surface of land, provides for several exemptions. Additionally the definition of minerals found at ORC Section 1514.01(B) must be read in conjunction with the definition of surface mining since that term is an integral part of the "surface mining" definition. The definition of "minerals", as follows, is extremely broad:

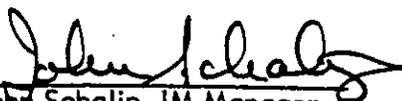
...sand, gravel, clay, shale, gypsum, halite, limestone dolomite, sandstone, other stone, metalliferous or nonmetalliferous ore, or other material or substance of commercial value excavated in a solid state from natural deposits on or in the earth, but does not include coal or peat.

The combined definitions of "surface mining" and "minerals" would provide for the regulation of topsoil operations, unless otherwise exempted by statute. Of the several exemptions under the definition of "surface mining", the exemption which reads as follows may exempt a topsoil operation:

...but does not include ...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.

The Division interprets the above language to allow for the exclusion of shallow surface excavations such as those associated with topsoil operations where no more than one acre of land is disturbed at any one time during the year. The Division interprets "disturbed" in this context to reference the active topsoil removal area. In other words, an operator of a topsoil removal operation may be excluded from Chapter 1514 regulation if it keeps its reclamation very current such that, at no time during the year, more than one acre is active or unreclaimed. For the purpose of determining the one acre, the Division considers active areas to include those areas being actively mined in addition to all areas disturbed but not yet reclaimed. Therefore, over the course of one year, more than one acre may have been mined and reclaimed and not regulated. Reclamation of a topsoil removal area would be considered accomplished when vegetation is planted.

JS/tp


John Schalip, IM Manager