

Draft Rule 1501:14-1-01, dated 8/26/2014

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

Typos and punctuation corrected throughout rule.

Introductory paragraph and paragraph (I). References corrected.

(I). The phrase "of the division of mineral resources management" proposed to be removed because it is no longer needed; "chief" was added as a definition to rule 1501:14-1-01, effective 9/17/2010.

(PP). Definition revised to include all entities included in section 1.59 of the Ohio Revised Code.

(QQ). New definition of probable hydrologic impacts, a phrase used in rule 1501:14-6-01(I).

(YY). The definition of "significant" moved from (UU) to (ZZ) to put it in alphabetical order.

(CCC). The definition of "surface mining" updated to include the new language from SB 315 of the 129th General Assembly, which took effect 9/10/2012.

(HHH). New paragraph that refers the reader to both IM incorporation by reference rules.

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

Dated 8/26/2014

## 1501:14-1-01 Definitions

As used in ~~all surface mining rules~~ 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 ~~the~~a surface mining operation.
- (C) "Acid Producing Material" means any material with a pH of 4.0 or less, or a calcium carbonate (CaCO<sub>3</sub>) deficiency of more than five tons of calcium carbonate (CaCO<sub>3</sub>) 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 ~~areas~~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 ~~this chapter~~ Chapter 1514. of the Revised Code and the rules adopted under it, including, but not limited to, use as fill ~~materials~~material in quarries, and for any other purposes designated by the chief ~~-of the division of mineral resources management~~, 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, 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 mining, sufficient to achieve soil stability and control landslides, erosion, and sedimentation with adequate

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

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~~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~~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 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.

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

- (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 division (B) of section 1514.41 of the Revised 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 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) "Non-fatal days lost incident rate" and "NFDLIR" mean the number of lost-time accidents multiplied by two hundred thousand, and divided by the hours of employee exposure.
- (LL) "Occupational injury" means occupational injury as defined in paragraph (e) of 30 C.F.R. 50.2.
- (MM) "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.
- (NN) "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 the maximum rate of runoff to be expected on the average of once in fifty years during a twenty-four hour period.
- (OO) "Permittee" means an operator who has been issued a surface mining permit by the chief.
- (PP) "Person" means ~~a person~~ 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.
- (QQ) "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)~~ (RR) "Production" means excavating minerals, or minerals and incidental coal, from a natural deposit for the

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

purpose of commercial use or sale.

~~(RR)~~ (SS) "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)~~ (TT) "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)~~ (UU) A "qualified person" means a person who has fulfilled the requirements of 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)~~ (UU) "~~Significant~~" means ~~the addition of any of the following activities when those activities are not currently approved in the permit plan:~~

~~(1)~~ (1) ~~Blasting activities.~~

~~(2)~~ (2) ~~Dewatering activities.~~

~~(3)~~ (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)~~ (4) ~~The beneficial use of lime mining waste (LMW).~~

~~(5)~~ (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.~~

(VV) "Resoil" means to distribute topsoil and subsoil, or substitute resoiling material.

(WW) "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.

(XX) "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.

(YY) "Seedbed" means an area of land prepared, prior to planting, to promote the germination of seed and the growth of seedlings.

(ZZ) "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

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

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)~~-(AAA) "Slope Angle" means the inclination of a surface from the horizontal, expressed in degrees.

~~(AAA)~~-(BBB) "Stemming" means the inert material used in a blasthole to confine the gaseous products formed upon explosion.

~~(BBB)~~-(CCC) "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 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)~~-(DDD) "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)~~-(EEE) "Surrounding Areas" means those ~~area~~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)~~-(FFF) "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)~~-(GGG) "Topographic Relief" means the difference in elevation between the highest and lowest elevations of the area depicted on any map required by Chapter 1514. of the Revised Code and division 1501:14 of the Administrative Code.

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

~~(GGG)~~(HHH) "Year" means twelve successive calendar months.

(III) 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.