

**Ohio Department of Natural Resources, Division of Mineral Resources Management**

Industrial Minerals rules with amendments filed with JCARR on June 7, 2016 (9 rules):

- 1501:14-1-08 Certificate of liability insurance.
- 1501:14-1-15 Public notice of hearing to adopt, amend, or rescind rules.
- 1501:14-1-16 Incorporation by reference.
- 1501:14-2-01 Incorporation by reference of mine safety standards.
- 1501:14-2-06 Mine safety training.
- 1501:14-2-07 Certified mine foreperson.
- 1501:14-2-08 Training in lieu of employing certified mine foreperson.
- 1501:14-2-09 Requirements governing the reporting and investigation of accidents and injuries for surface mining operations that are not inspected by MSHA.
- 1501:14-5-01 Hydrology.

Draft Rule 1501:14-1-08, dated 4/6/2016

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

(D). Revised to remove the requirement that the proof of insurance form contain an original signature. DMRM accepts copies of the proof of insurance form, not only the original, and these copies still fulfill the proof of insurance requirement. Also revised to correct the Division's address.

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

Dated 4/6/2016

**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 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 rider requiring that the insurer notify the chief of termination of the policy or failure to renew.
- (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 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 proof of insurance form ~~shall contain an original signature and~~ shall be sent to "Ohio Department of Natural Resources, Division of Mineral Resources Management, 2045 Morse Road, Building H-3, Columbus, Ohio 43229."

Draft Rule 1501:14-1-15, dated 5/19/2015

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

(A) and (B). Revised so the rule is consistent with the requirements of section 119.03 of the Revised Code.

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

Dated 5/19/2015

**1501:14-1-15 Public notice of hearing to adopt, amend, or rescind rules.**

- (A) Public notices of hearings to adopt, amend, or rescind rules, which are conducted by the Ohio department of natural resources, division of mineral resources management, ~~will~~shall be given in the register of Ohio as required by Chapter 119. of the Revised Code. The website for the register of Ohio is <http://www.registerofohio.state.oh.us/>.
- (B) Public notice of a hearing to adopt, amend, or rescind rules shall be given at least thirty days, ~~but not more than sixty days~~, prior to the hearing. The notice shall: state the division's intention to consider adopting, amending, or rescinding rules; include a synopsis ~~or full text~~ of the proposed rules, amendments, or rules to be rescinded, or a general statement of the subject matter to which such proposed rules, amendments or rescissions relate; state the reason or purpose for adopting, amending, or rescinding the rules; and enumerate the date, time, and place of the hearing on the proposed action, which shall not be earlier than the thirty-first nor later than the fortieth day after the proposed rules, amendments or rescissions are filed. The notice shall also state the place where a copy of the proposed rules, amendments or rescissions may be obtained. The chief shall provide a copy of the public notice to anyone who requests it and pays a reasonable fee, not to exceed the cost of copying and mailing.

Draft Rule 1501:14-1-16, dated 4/25/2016

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

(A) and (B). Updates of the editions of the Code of Federal Regulations and the United States Code that are incorporated by reference.

*Before this rule is filed with JCARR, the dates in the rule will be updated with the most recent federal publication dates.*

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

Dated 4/25/2016

**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, ~~for Title 40, those published in the July 1, 2013, C.F.R., and for Title 30, those published in the July 1, 2014~~2015, C.F.R. These regulations can generally be found in public libraries or electronically at the website <http://www.gpo.gov/fdsys/>. These regulations are:

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

(B) The federal laws listed in these rules are those published in the 2012 edition of the United States Code (U.S.C.), dated January 15, 2013, as supplemented in ~~2013~~2014, effective January ~~16~~5, ~~2014~~2015. These laws can generally be found in public libraries or electronically at the website <http://www.gpo.gov/fdsys/>. 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.

Draft Rule 1501:14-2-01, dated 4/25/2016

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

(A). Updates the edition of the Code of Federal Regulations that is incorporated by reference.

*Before this rule is filed with JCARR, the date in the rule will be updated with the most recent federal publication date.*

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

**Dated 4/25/2016**

**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, ~~2014~~2015, C.F.R. These regulations can generally be found in public libraries or electronically at the website <http://www.gpo.gov/fdsys/>. These regulations are 30 C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended.
- (B) This rule shall be reviewed and updated as pertinent changes take place in 30 C.F.R. and as the publication date of the C.F.R. is updated. This review shall take place at least annually.

Draft Rule 1501:14-2-06, dated 7/7/2015

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

(B). Revised to incorporate the changes to ORC section 1514.42 enacted by HB 64, effective 9/29/2015. Also clarifies that the annual audit will be conducted at the surface mining operation where the miners requiring training are employed, and that additional safety audits conducted by the Chief at the request of the operator are subject to the availability of mine safety staff and resources.

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

Dated 7/7/2015

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

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

Draft Rule 1501:14-2-07, dated 6/1/2016

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

Numerous changes made to this rule per the amendments of HB 64, effective 9/29/2015.

(A) and new sub-paragraphs (1) to (4). Revised per HB 64. Language of ORC section 1514.47(A) added.

(B)(8). Revised to “Ohio Treasurer of State” to mirror the language of OAC 113-1-02(C)(1).

(B)(9). Revised per HB 64, ORC section 1514.47(C)(1). After September 29, 2015, certificates issued under this rule will no longer expire unless the certificate holder has not been employed in a surface mining operation for five consecutive years.

(C). Revised to reflect how temporary mine foreperson certifications are currently handled: upon the request of the operator, a temporary certification can be given to the employee of a surface industrial minerals operation, provided the employee is within six months of having accumulated the required experience for certification.

(C)(1). Revised to use the active voice, per the Legislative Service Commission’s Rule Drafting Manual.

(C)(2). The phrase “the temporary certification shall expire” added to clarify.

(C)(3). New paragraph that reflects how temporary mine foreperson certifications are currently handled: a temporary certification does not expire if the person holding the certification has applied to take the certification examination and the application is postmarked by midnight of the expiration date of the temporary certification. The person then needs to take and pass the next scheduled certification examination.

(E), and (E)(1) to (5). Most currently effective provisions proposed to be removed and replaced with language related to reissuance and expiration of a mine foreperson certificate per HB 64. See ORC sections 1514.40(F) and 1514.47(C).

(E). “renewal” changed to “reissuance” per ORC section 1514.40(F). “Expiration” added per ORC section 1514.47(C)(1).

(E)(1). Establishes requirements for reissuance of mine foreperson certification per ORC sections 1514.40(F) and 1514.47(C)(4). A person holding a certificate that has not expired can request the Chief to reissue a certificate that does not expire; no fee will be charged this person.

(E)(2). Establishes requirements and fee for reissuance of mine foreperson certification per ORC sections 1514.40(F) and 1514.47(C)(5). A person holding a certificate that expired in 2012 who has not been issued a new certificate can request the Chief to reissue a certificate that does not expire. The Chief shall reissue the certificate, provided the person is in compliance with all other applicable requirements, submits an application for reissuance with the Chief, and pays a fee of \$25.

(E)(3). Provision of ORC section 1514.47(C)(1) added, regarding expiration of a certificate if the certificate holder has not been employed in a surface mining operation for five consecutive years. Includes specifics on the contents of a petition. \$25 fee for reissuance of certification is paid only if petition is granted. If petition is denied, the holder of the expired certificate may apply for a new certificate by retaking the mine foreperson exam and fulfilling the other certification requirements of ORC section 1514.47(B) and paragraph (B) of this rule.

(E)(4). Provision related to ORC section 1514.47(C)(1) added: a certificate holder who has not been employed in a surface mining operation for five consecutive years shall not perform the duties of a certified mine foreperson unless the Chief reissues the certificate under (E)(3) of this rule or issues a new certificate under (B) of this rule.

(F)(1) and (2). “reissued” and “reissuance” added per ORC sections 1514.40(F) and 1514.47(C)(1), (4) and (5). ORC section 1514.47(C)(2) still uses the term “renew” so that word is not proposed to be removed from this paragraph.

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

Dated 6/1/2016

1501:14-2-07 Certified mine foreperson.

- (A) ~~The operator of a surface mining operation shall employ either a certified mine foreperson or a person who is qualified in accordance with division (E) of section 1514.47 of the Revised Code and rule 1501:14-2-08 of the Administrative Code to conduct examinations of surface mining operations for purposes of 30 C.F.R. part 56, as amended.~~
- (1) The operator of a surface mining operation shall employ a certified mine foreperson to be in charge of the conditions and practices at the mine and to be responsible for conducting examinations of the surface mining operation under 30 C.F.R. part 56, as amended.
- (2) Examinations of surface mining operations for the purposes of 30 C.F.R. part 56, as amended, shall be conducted by one of the following:
- (a) A certified mine foreperson;
- (b) A person who is qualified to conduct such examinations as provided in division (D) of section 1514.47 of the Revised Code and paragraph (C) of rule 1501:14-2-08 of the Administrative Code;
- (c) A person designated by the certified mine foreperson as a competent person.
- (3) For purposes of this rule, a competent person is a person who has been trained in accordance with 30 C.F.R. part 46 and been determined by a certified mine foreperson to have demonstrated the ability, training, knowledge, and experience necessary to perform the duty to which the person is assigned. A person is not a competent person if the chief demonstrates, with good cause, that the person does not have the ability, training, knowledge, or experience necessary to perform that duty.
- (4) The operator of a surface mining operation shall maintain records demonstrating that a competent person designated by a certified mine foreperson has the ability, training, knowledge, and experience to perform the duty to which the person is assigned as well as records of the competent person's training in accordance with 30 C.F.R. part 46. The operator shall make the records available to the chief upon request.
- (B) Qualifications, fees and procedures governing the examination for certification as a mine foreperson for surface mines.
- (1) A person who applies for certification as a mine foreperson shall be able to read and write the English language and shall have at least two years' experience working with or under the direction of a certified mine foreperson.
- (2) Persons may be certified for either or both of the following:
- (a) Sand and gravel mine foreperson for surface mining operations permitted under Chapter 1514. of the Revised Code and these rules which do not use explosives.
- (b) Quarry mine foreperson, which shall be valid for all surface mining operations permitted under Chapter 1514. of the Revised Code and these rules.
- (3) An applicant for certification as a mine foreperson shall file an application for certification with the chief, including a notarized affidavit establishing the applicant's qualifications as set forth in paragraph (B)(1) of this rule, to take the certified mine foreperson examination. An applicant may apply for certification as both a sand and gravel foreperson and a quarry mine foreperson. Such application and affidavit shall

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

be made on a form prescribed by the chief.

- (4) The chief shall conduct mine foreperson certification examinations as often as practical in accordance with these rules.
  - (5) The chief shall grade each examination, and certify an applicant attaining a grade of seventy per cent or higher on each portion of the examination.
  - (6) An applicant not attaining a passing grade on one part of the examination may apply to be retested on that part only.
  - (7) An applicant not attaining a passing grade on two or more parts of the examination shall wait at least thirty days before reapplying for examination. An applicant not attaining a passing grade on two or more parts of the examination shall retake the entire examination.
  - (8) Each applicant for examination shall pay a non-refundable fee of twenty-five dollars, submitted with each application for examination. This fee shall be paid by check or money order payable to "~~Treasurer, State of Ohio~~ Treasurer of State." Any moneys collected under this rule shall be paid into the state treasury to the credit of the surface mining fund created in section 1514.06 of the Revised Code.
  - (9) A certificate issued under paragraph (B) of this rule after September 29, 2015, shall not expire ~~five years after the date of issuance unless it is renewed in accordance with paragraph (E) of this rule unless, as provided in division (C)(1) of section 1514.47 and paragraph (E)(3) of this rule, the certificate holder has not been employed in a surface mining operation for five consecutive years.~~
- (C) Temporary certification of mine foreperson. An ~~applicant~~ operator may submit a request to the chief, on a form provided by the chief, asking for temporary certification for one of his or her employees who is within six months of having accumulated the required experience for certification as a sand and gravel foreperson or a quarry mine foreperson so that the employee may ~~submit a request to the chief, on a form provided by the chief, to~~ act in the capacity of a certified sand and gravel foreperson or a certified quarry mine foreperson on a temporary basis until such time as the applicant has accumulated the minimum necessary experience.
- (1) The recipient of a temporary certification may apply for and take the examination for certification, administered under paragraph (B) of this rule, during the period within which the individual has a temporary certification. If the applicant passes the examination and, upon completion of all eligibility requirements, submits the required information on a notarized form provided by the chief documenting the accrual of the balance of the required experience, the chief shall issue the applicant a mine foreperson certification ~~shall be issued by the chief.~~
  - (2) Temporary certification as a mine foreperson shall be valid for a maximum of six months. If the individual holding a temporary certification does not pass the examination by the end of the six-month period, the temporary certification shall expire and the applicant shall cease performing all duties of a certified mine foreperson.

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

- (3) If the individual holding a temporary certification has applied to take the examination for certification and the application to take the examination has been postmarked by midnight of the expiration date of the temporary certification, the temporary certification shall remain in effect until the date of the next certification examination scheduled by the division of mineral resources management. The division will notify the applicant of the examination date. If the applicant does not take the next scheduled examination or does not pass that examination, the temporary certification shall expire and the applicant shall cease performing all duties of a certified mine foreperson.
- ~~(3)~~ (4) No person shall be eligible to receive temporary certification more than one time unless the chief determines that exigent circumstances warrant otherwise.
- ~~(4)~~ (5) The chief may waive any part of the requirements for temporary certification if the chief determines exigent circumstances so warrant.
- (D) A copy of each mine foreperson certificate and temporary certificate shall be kept at the mine site and made available to the chief upon request.
- (E) Qualifications, fees and procedures governing the ~~renewal~~ reissuance and expiration of mine foreperson certification. ~~A certificate issued under paragraph (B) of this rule may be renewed, provided that the applicant verifies that all required training pursuant to 30 C.F.R. part 46, as amended, has been completed and any other requirements for renewal have been satisfied.~~
- (1) ~~A mine foreperson certificate issued pursuant to section 1514.47 of the Revised Code and this rule shall expire five years after issuance of the certificate.~~ If a person holds a certificate issued under paragraph (B) of this rule that has not expired prior to September 29, 2015, the chief, upon request, shall reissue to the person a certificate that does not expire.
- (2) ~~A mine foreperson certificate issued pursuant to section 1514.47 of the Revised Code and this rule may be renewed six months prior to expiration of such certification upon completion of the following:~~ If a person holds a certificate issued under this rule that expired on or after April 7, 2012, and has not been issued a new certificate prior to September 29, 2015, the chief, upon request, shall issue to that person a certificate that does not expire, provided that the person is in compliance with all other applicable requirements established in Chapter 1514. of the Revised Code and rules adopted under it. An applicant for reissuance of a mine foreperson certification pursuant to this paragraph shall file an application for reissuance with the chief, on a form prescribed by the chief, and pay a non-refundable fee of twenty-five dollars. This fee shall be paid by check or money order payable to "Ohio Treasurer of State."
- ~~(a) An applicant for recertification shall file an affidavit with the chief establishing the applicant's qualifications for recertification. Such affidavit shall be made on a form prescribed by the chief and notarized prior to submission.~~
- ~~(b) An applicant for recertification shall provide the chief with copies of training records verifying that the applicant has received annual refresher training, as required in rules adopted and incorporated by reference pursuant to division (A) of section 1514.40 of the Revised Code, each year during the five preceding years.~~
- ~~(c) An applicant for recertification shall pay a non-refundable fee of twenty-five dollars, submitted with each application for renewal. This fee shall be paid by check or money order payable to "Treasurer, State of Ohio." Any moneys collected under this paragraph shall be paid into the state treasury to the~~

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

~~credit of the surface mining fund created in section 1514.06 of the Revised Code.~~

~~(d) The chief may issue a certificate of renewal to an applicant completing all requirements of division (C) of section 1514.47 of the Revised Code and this rule.~~

(3) ~~A foreperson or mine foreperson certificate issued prior to April 6, 2007, shall expire on April 6, 2012. A person holding such a certificate shall be eligible for renewal provided he or she meets the requirements of section 1514.47 of the Revised Code and this rule.~~ A mine foreperson certificate issued pursuant to section 1514.47 of the Revised Code and this rule shall not expire unless the certificate holder has not been employed in a surface mining operation for five consecutive years. If the certificate holder has not been employed in a surface mining operation for five consecutive years, the certificate holder may retake the mine foreperson examination and fulfill the other certification requirements of division (B) of section 1514.47 of the Revised Code and paragraph (B) of this rule, or may petition the chief to accept past employment history in lieu of being employed in a surface mining operation for five consecutive years. The petition shall be made on a form prescribed by the chief and shall include a notarized affidavit establishing the certificate holder's qualifications as set forth in paragraph (B)(1) of this rule. The certificate holder shall submit with the petition copies of training records verifying that within the past twelve months the certificate holder has received annual refresher training as required in rules adopted and incorporated by reference pursuant to division (A) of section 1514.40 of the Revised Code. The chief shall grant or deny the petition by issuance of an order. If the chief grants the petition, the certificate holder shall pay a non-refundable fee of twenty-five dollars, paid by check or money order payable to "Ohio Treasurer of State," and the chief shall reissue the certificate. If the chief denies the petition, the certificate holder may apply for a new certificate by retaking the mine foreperson examination and fulfilling the other certification requirements of division (B) of section 1514.47 of the Revised Code and paragraph (B) of this rule.

(4) ~~A person not renewing his or her certification prior to its expiration shall cease performing all duties of a certified foreperson upon expiration of the certificate.~~ If a certificate holder has not been employed in a surface mining operation for five consecutive years, he or she shall not perform the duties of a certified mine foreperson unless the chief reissues his or her certificate pursuant to division (C)(1) of section 1514.47 of the Revised Code and paragraph (E)(3) of this rule or the chief issues him or her a new certificate pursuant to division (B) of section 1514.47 of the Revised Code and paragraph (B) of this rule.

~~(5) A person for whom certification has expired must apply for and pass the examination conducted under paragraph (B) of this rule for the desired certification prior to performing the duties requiring certification.~~

(F)

(1) If a certificate, including a temporary certificate, issued under this rule is suspended, the certificate shall not be renewed or reissued until the suspension period expires and the person whose certificate is suspended successfully completes all actions required by the chief. If an applicant's license, certificate, or similar authority that is issued by another state to perform specified mining duties is suspended or

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

revoked by that state, the applicant shall be ineligible for a certification test or for renewal [or](#) [reissuance](#) of a certificate, including a temporary certificate, in this state during that period of suspension or revocation.

(2) A certificate, including a temporary certificate, issued under this rule that has been revoked shall not be renewed [or reissued](#).

(G) If a person who has been certified by the chief under section 1514.47 of the Revised Code and this rule purposely violates Chapter 1514. of the Revised Code or Chapters 1501:14-1 to 1501:14-6 of the Administrative Code, the chief may suspend or revoke the certificate after an investigation and hearing conducted in accordance with Chapter 119. of the Revised Code are completed.

Draft Rule 1501:14-2-08, dated 7/6/2015

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

(A). Paragraph references revised per HB 64, effective 9/29/2015.

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

Dated 7/6/2015

**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 ~~(D)~~(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 ~~(E)~~(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 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 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 address 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) 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 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 be a minimum of four hours each year.
- (B) The chief shall review the plan and determine if the plan complies with the requirements established in these rules. The chief shall approve or not approve the plan and notify the operator, in writing, of his or her

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

decision.

- (1) A plan not approved by the chief shall be returned to the operator with an explanation of the reason(s) for non-approval.
  - (2) Any changes to an approved training plan must 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 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 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 document such training, in writing, to the chief.

Draft Rule 1501:14-2-09, dated 3/2/2016

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

(A)(2). Division's address corrected.

(C)(2). "of a miner" added to clarify the application of the provision.

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

Dated 3/2/2016

**1501:14-2-09 Requirements governing the reporting and investigation of accidents and injuries for surface mining operations that are not inspected by MSHA.**

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

(A) Accidents and injuries requiring reporting.

(1)

- (a) A fatality or a life-threatening injury that occurs at a surface mining operation that is not inspected by MSHA shall be reported to the division within one hour, once the operator knows or should know that the fatality or life-threatening injury has occurred, by contacting the emergency operations center of the Ohio department of natural resources by telephone at (614) 799-9574.
- (b) If the operator thinks that the accident reported under paragraph (A)(1)(a) of this rule did not occur as a result of an unsafe condition or a practice at the operation, then the operator may, within twenty-four hours after the accident is reported, provide the chief with a written explanation of the reason(s) upon which the operator bases such opinion. The operator may provide this explanation by U.S. mail, facsimile, or electronic mail to the attention of: manager, mine safety program, Columbus office, division of mineral resources management.

- (2) A lost-time accident other than a life-threatening injury that occurs at a surface mining operation that is not inspected by MSHA shall be reported to the chief, in writing on a form provided by the chief, within ten days after the lost-time accident occurs. The accident report form shall be sent to "Mine Safety Section, Division of Minerals Resources Management, Ohio Department of Natural Resources, 2045 Morse Road, Building H-3, Columbus, OH 43229."

(B) Investigation of fatalities and life-threatening injuries.

- (1) Upon receipt of notice that a fatality or a life-threatening injury has occurred at an operation, the chief shall conduct an investigation to determine the events surrounding and causes of the fatality or life-threatening injury.
- (2) If the chief conducts an investigation pursuant to this rule, the operator shall, during the investigation, provide the chief, in writing, the name of the organization identified as the authorized representative of the miners for the operation, if applicable.
- (3) The chief shall prepare a report of the investigation, which shall include a determination of whether such fatality or injury occurred as a result of an unsafe condition or a practice at the operation. Within seven days of the completion of the fatality or life-threatening injury investigation report, the chief shall provide the operator and, if applicable, the authorized representative of the miners at the operation, with a copy of the investigation report.

(C) Notification of determination to conduct inspections.

- (1) If the chief determines that a fatality or a life-threatening injury of a miner has occurred at a surface mining operation as a result of an unsafe condition or a practice at the operation, the chief shall immediately provide the operation with written notice that the operation will be inspected once every three months for a period of two years for a fatality in accordance with division (C) of section 1514.41 of the Revised Code or that the operation will be inspected once every three months for a period of one year for a life-threatening injury in accordance with division (D) of section 1514.41 of the Revised Code. The notice shall contain:

- (a) A citation of the relevant provision(s) of the Revised Code and the Administrative Code that require

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

the inspections;

- (b) A statement that the one-year or two-year time frame for the inspections, as applicable, will begin immediately;
- (c) The number of inspections the surface mining operation will receive; and
- (d) The procedure, pursuant to paragraph (D) of this rule, whereby the operator may request that the chief reconsider the decision that a fatality of a miner or a life-threatening injury of a miner occurred at a surface mining operation as a result of an unsafe condition or a practice at the operation.

(2) If a fatality 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, the chief shall, as soon as practicable, conduct a mine safety inspection of the operation in accordance with sections 1514.41 and 1514.43 of the Revised Code and these rules. A request for reconsideration pursuant to paragraph (D) of this rule shall not cause a delay in the conduct of this mine safety inspection.

(D) Reconsideration by the chief.

- (1) Within thirty days of receipt of the notification required by paragraph (C) of this rule, a surface mining operator may submit a written request to the chief asking him or her to reconsider the decision that a fatality of a miner or a life-threatening injury of a miner occurred at a surface mining operation as a result of an unsafe condition or a practice at the operation.
- (2) Within fourteen days of receipt of an operator's request for reconsideration under paragraph (D)(1) of this rule, the chief shall 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 under paragraph (D)(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 an appeal with the reclamation commission of the chief's decision that a fatality of a miner or a life-threatening injury of a miner occurred at a surface mining operation as a result of an unsafe condition or a practice at the operation without first requesting reconsideration as provided by paragraph (D)(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.

Draft Rule 1501:14-5-01, dated 7/16/2015

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

(B)(1), (B)(2)(j), and (B)(4)(a). Small changes related to grammar and spelling.

(B)(4)(a)(ii), (c), and (d). Revised due to a change made by HB 64 of the 131<sup>st</sup> General Assembly: effective 1/1/2016, the Division of Soil and Water Resources was renamed the Division of Water Resources.

(B)(4)(a)(v). “plan” corrected to “plane.”

(B)(4)(a)(xiii). Unit of measure, “(feet),” added.

(B)(4)(d), (C), and (E). Revised so that the rule speaks consistently of a ground water model. The word “modeling” is still used in reference to modeling software in (C).

(B)(5)(c). A requirement that the known uses of water, (B)(2)(c), be shown on the hydrogeologic cross-section is proposed to be removed because a cross-section is not an appropriate place to include this information. Note that this information would still be required to be submitted as part of the description related to ground water hydrology under (B)(2)(c).

(D)(1) and (2). The word “quadrants” removed because not all dewatering permits use quadrants. The last sentence of (D)(1) re-worded to clarify the requirements for a staged cone of depression.

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

Dated 7/16/2015

## 1501:14-5-01 Hydrology.

Except as provided in paragraph (C) of this rule, 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 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 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.
  - (1) The description shall include 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 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 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 contain 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);
    - (f) The storativity of the aquifer(s);
    - (g) The hydraulic conductivity of the aquifer(s);

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

- (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 ~~current~~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, 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 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 all of the existing water wells if there are ~~less~~fewer than one hundred wells. 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 a total of three hundred. 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 ~~soil and~~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 ~~plan~~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);
    - (xii) Lithology of the screen interval/open borehole;
    - (xiii) Length of any well screen (feet);
    - (xiv) Test rate (gallons per minute);

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

- (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 ~~soil and~~ 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 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 ~~hydrologic~~ground water model. If there is a disagreement as to the amount or extent of the water resources information necessary, the chief shall consult with the chief of the division of ~~soil and~~ water resources prior to determining the final extent of data necessary. If the chief grants a reduction, the written request and determination shall be submitted with the permit application.
  - (5) The application shall contain a minimum of two perpendicular hydrogeologic cross-sections of the same scale for the study area based on available information and at a minimum shall:
    - (a) Be of uniform horizontal scale;
    - (b) Be of uniform vertical scale;
    - (c) Depict the information required in paragraphs (B)(2)(a), (B)(2)(b), ~~(B)(2)(c)~~, (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 in the water supply inventory of paragraph (B)(4) of this rule is unobtainable, a statement to that effect shall be submitted, giving the reasons therefor.
- (C) ~~Modeling~~Ground water model submitted by the applicant.

An applicant for a permit may choose to submit a ground water modeling model with his or her application for a permit that defines the projected cone of depression for the proposed operation. The model must accurately reflect the ground water flow conditions associated with the hydrologic study area and 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 and the model results must be submitted in a format prescribed by the chief.

A ground water model submitted to the chief must 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 ~~groundwater~~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.

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

(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 reflect a maximum of four vertical or horizontal sump locations within the proposed permit area. ~~The~~For each stage, the applicant shall identify the ~~quadrants or elevations of the staged sump locations as part of this request~~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 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 ~~for the quadrants~~ of the permit area affected at the time of the complaint.
  - (3) If the projected cone of depression is staged, the permittee must identify the exact location, elevation, and pumping rate of the dewatering sump(s) for the surface mining operation on each annual map required under section 1514.03 of the Revised Code. The permittee must 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 modeling 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 modeling 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.