

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 ~~less~~fewer than one hundred square miles for surface excavations and/or surface mining activities pursuant to divisions (E)(3) and (F)(3) of section 1514.10 of the Revised Code using the following procedure and standard of review.

(A) An applicant for a variance shall submit a request on forms prescribed by the chief. The request shall include, at a minimum:

(1) A description of the activities proposed to be conducted within the variance area and the duration of the proposed activities;

(2) The name of the watercourse and the distance to the highwater mark of the watercourse from the variance area where the proposed activities would be conducted;

~~(2)~~(3) An explanation of why it is necessary to conduct the proposed activities within the variance area;

~~(3)~~(4) An explanation of alternatives to the proposed activities that were considered;

~~(4)~~(5) A description of the physical conditions in and around the watercourse;

~~(5)~~(6) Plans, drawings and design details necessary to reflect any temporary or permanent relocation or restoration of the watercourse;

~~(6)~~(7) Plans for the reclamation of areas proposed to be affected within the variance area; and

~~(7)~~(8) Plans describing the measures to be employed to protect unaffected portions of the watercourse and surrounding areas.

(B) The chief shall grant a variance for surface excavations and/or surface mining activities upon a written finding that the activities, measures, and reclamation proposed will be sufficient to prevent damage to the watercourse and/or surrounding area.

(C) If an applicant for a variance has also obtained an individual state or federal permit pursuant to the Clean Water Act under section 401 ("section 401 permit") or section 404 ("section 404 permit") in conjunction with the requested variance activity, the

chief shall presume that the measures set forth in those permits are sufficient to prevent damage to the watercourse and/or surrounding area.

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

Effective: 05/15/2015

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CERTIFIED ELECTRONICALLY

Certification

05/04/2015

Date

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