



Ohio Administrative Code Rule 1501:13-14-01 Inspections.

Effective: February 14, 2022

(A) For purposes of this rule:

(1) "Chief" shall mean the chief, his or her authorized representative, or any inspection officer.

(2) "Inactive coal mining and reclamation operation" means an operation:

(a) For which the chief has secured from the permittee the written notice required under paragraph (A) of rule 1501:13-9-16 of the Administrative Code; or

(b) For which reclamation phase II as defined in paragraph (B)(1)(b) of rule 1501:13-7-05 or paragraph (B)(1)(b) of rule 1501:13-7-05.1 of the Administrative Code has been completed.

(3) "Abandoned coal mining and reclamation operation" means an operation where the chief has found in writing that:

(a) All surface and underground coal mining and reclamation activities at the site have ceased;

(b) The chief has issued at least one notice of violation, and either:

(i) Is unable to serve the notice despite diligent efforts to do so; or

(ii) The notice was served and has progressed to a failure-to-abate cessation order;

(c) The chief:

(i) Is taking action to ensure that the permittee and operator, and owners and controllers of the permittee and operator, will be precluded from receiving future permits while violations continue at the site; and



(ii) Is taking action pursuant to rules 1501:13-14-02 and 1501:13-14-06 of the Administrative Code, or section 1513.02, 1513.15, 1513.40, or 1513.99 of the Revised Code to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where after evaluating the circumstances, the chief concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

(d) Where the site is, or was, permitted and performance security was provided:

(i) The permit has either expired or been revoked; and

(ii) The chief initiated and is diligently pursuing forfeiture of, or has forfeited, any available performance security.

(4) "Active coal mining and reclamation operation" means an operation other than an inactive or abandoned coal mining and reclamation operation.

(B) The chief shall have a right of entry to, upon, or through any coal mining and reclamation operations, coal exploration operations, any premises in which any records required to be maintained are located and any area of land upon which the chief has reason to believe that coal mining and reclamation operations are being conducted.

(C) The chief shall conduct an average of at least one partial inspection per month of each active coal mining and reclamation operation under his or her jurisdiction, and shall conduct such partial inspections of each inactive coal mining and reclamation operation under his or her jurisdiction as are necessary to ensure effective enforcement. A "partial inspection" is an on-site or aerial review of a person's compliance with some of the permit conditions and requirements imposed under Chapter 1513. of the Revised Code and these rules.

(1) If the chief or his or her authorized representative conducts an aerial inspection, the aerial inspection shall be conducted in a manner which reasonably ensures the identification and documentation of conditions at each coal mining and reclamation site inspected.



(2) Any potential violation observed during an aerial inspection shall be investigated on site within three calendar days after the aerial inspection, provided that any indication of a condition, practice or violation constituting cause for issuance of a cessation order under division (D)(1) of section 1513.02 of the Revised Code shall be investigated on site immediately, and provided further that an on-site investigation of a potential violation observed during an aerial inspection shall not be considered to be an additional partial or complete inspection for the purposes of paragraph (C) or (D) of this rule.

(D) The chief shall conduct an average of at least one complete inspection per calendar quarter of each active and inactive coal mining and reclamation operation under his or her jurisdiction. A "complete inspection" is an on-site review of a person's compliance with all permit conditions and requirements imposed under Chapter 1513. of the Revised Code and these rules.

(E) In lieu of the inspection frequency established in paragraphs (C) and (D) of this rule, the chief shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year.

(1) In selecting an alternate inspection frequency authorized under paragraph (E) of this rule, the chief shall first conduct a complete inspection of the abandoned site and provide public notice under paragraph (E)(2) of this rule. Following the inspection and public notice, the chief shall prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. This written finding shall justify the new inspection frequency by affirmatively addressing in detail all of the following criteria:

(a) How the site meets each of the criteria under the definition of an abandoned site under paragraph (A)(3) of this rule and thereby qualifies for a reduction in inspection frequency;

(b) Whether, and to what extent, there exist on the site impoundments, earthen structures, or other conditions that pose, or may reasonably be expected to pose imminent dangers to the health or safety of the public or significant environmental harms to land, air, or water resources;

(c) The extent to which existing impoundments or earthen structures were constructed and certified in accordance with prudent engineering designs approved in the permit;



- (d) The degree to which erosion and sediment control is present and functioning;
 - (e) The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools, and other public or commercial buildings and facilities;
 - (f) The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas, taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with time; and
 - (g) Based on a review of the complete and partial inspection report record for the site during at least the last two consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.
- (2) The public notice and opportunity to comment required under paragraph (E)(1) of this rule shall be provided as follows:
- (a) The chief shall place a notice in the newspaper with the broadest circulation in the locality of the abandoned site providing the public with a thirty-day period in which to submit written comments; and
 - (b) The public notice shall contain the permittee's name, the permit number, the precise location of the land affected, the inspection frequency proposed, the general reasons for reducing the inspection frequency, the performance security status of the permit, the telephone number, address, and electronic mail address where written comments on the reduced inspection frequency may be submitted, and the closing date of the comment period.
- (F) The chief shall conduct such inspections of all coal exploration operations as are necessary to ensure compliance with Chapter 1513. of the Revised Code and rules adopted thereunder.
- (G) Except as provided in paragraph (M) of this rule, the inspections required under paragraphs (C), (D), (E), and (F) of this rule shall:



- (1) Occur without advance notice or search warrant and upon presentation of appropriate credentials;
- (2) Be carried out on an irregular basis, so as to monitor compliance at all operations, including those which operate nights, holidays, and weekends;
- (3) Occur without prior notice to the permittee or operator being inspected or any agent or employee of such permittee or operator, except for necessary on-site meetings;
- (4) Include the prompt filing of inspection reports or other documents adequate to enforce the requirements of and to carry out the terms and purposes of Chapter 1513. of the Revised Code and rules adopted thereunder;
- (5) Include the collection of evidence with respect to every violation; and
- (6) Allow for inspection of any monitoring equipment or method of exploration or operation and allow access to and acquisition of copies of any records required to be maintained under Chapter 1513. of the Revised Code and rules adopted thereunder.

(H) Citizen's request for inspection.

(1) A citizen may request an inspection by furnishing to the chief a signed or electronically signed, written statement, or an oral report followed by a signed or electronically signed, written statement, giving:

(a) The reason for believing that a violation exists; and

(b) A phone number and address where the citizen can be contacted.

(2) The identity of any person supplying the information to the chief in a request for an inspection shall remain confidential, if requested by the person, unless the person elects to accompany the inspector on the inspection or unless disclosure is required under the state's freedom of information laws.



(3) If an inspection is to be conducted as a result of information provided by the citizen, the citizen shall be notified as far in advance as is practicable when the inspection is to occur and shall be allowed to accompany the inspector. The citizen shall be in the presence of and under control, direction, and supervision of the inspector during the inspection. The citizen does not have the right to enter buildings without consent of the permittee or without a search order.

(4) Within ten days of the inspection or, if there is no inspection, within fifteen days of receipt of the citizen's written statement, the chief or his or her representative shall send the citizen and the permittee the following:

(a) If an inspection was made, a description of the enforcement action taken or an explanation of why no enforcement action was taken;

(b) If no inspection was conducted, an explanation of the reason why; and

(c) An explanation of the citizen's right to informal review of the action of the chief.

(5) The chief shall give copies of all materials in paragraphs (H)(4)(a) and (H)(4)(b) of this rule within the time limits specified in those paragraphs to the person, permittee, or operator alleged to be in violation, except that the name of the citizen shall be removed unless disclosure of the citizen's identity is permitted under paragraph (H)(2) of this rule.

(I) Inspection of operations where coal is extracted incidental to the extraction of other minerals.

(1) Authorized representatives of the chief and of the U.S. secretary of the interior shall have the right to conduct inspections of operations claiming the exemption from the requirements of Chapter 1513. of the Revised Code in accordance with rule 1501:13-4-16 of the Administrative Code.

(2) Each authorized representative of the chief or of the U.S. secretary of the interior conducting an inspection under paragraph (I)(1) of this rule:

(a) Shall have a right of entry to, upon, and through any mining and reclamation operations without advance notice or a search warrant, upon presentation of appropriate credentials;



(b) May, at reasonable times and without delay, have access to and copy any records relevant to the exemption; and

(c) Shall have a right to gather physical and photographic evidence to document conditions, practices, or violations at a site.

(3) No search warrant shall be required with respect to any activity under paragraphs (I)(1) and (I)(2) of this rule, except that a search warrant may be required for entry into a building.

(J) Informal review.

(1) Any person who is or may be adversely affected by a coal mining and reclamation operation may request, in writing or by electronic mail, the chief to review informally an authorized representative's or inspection officer's decision not to inspect or take appropriate enforcement alleged by that person in a request for inspection under paragraph (H) of this rule. The request for review shall include a statement of how the person is or may be adversely affected and why the decision merits review.

(2) The chief shall conduct the review and inform the person, in writing or by electronic mail, of the results of the review within thirty days of receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure is required under the state's freedom of information laws.

(3) Informal review under this rule shall not affect any right to formal review or to a citizen's suit under Chapter 1513. of the Revised Code and rules adopted thereunder.

(K) Any person who is or may be adversely affected by coal exploration or a coal mining and reclamation operation may notify the chief, in writing or by electronic mail, of any alleged failure to make adequate and complete or periodic inspections as provided in paragraphs (C), (D), (E), and (F) of this rule.

(1) The notification shall include sufficient information to create a reasonable belief that this rule is



not being complied with and to demonstrate that the person is or may be adversely affected.

(2) The chief shall, within fifteen days of receipt of the notification, determine whether this rule is being complied with, and if not, shall immediately order an inspection.

(3) The chief shall furnish the complainant with a written or electronic finding, stating his or her determination and actions.

(L) The permittee or operator may accompany the chief during any inspection.

(M) Compliance review.

(1) A permittee may request an on-site compliance review with the chief or his or her authorized representative to review the compliance status of any condition or practice proposed at any coal exploration or coal mining and reclamation operation. Any such review shall not constitute an inspection within the meaning of division (C)(1) of section 1513.09 of the Revised Code or paragraph (C), (D), (E), or (F) of this rule.

(2) The chief or his or her authorized representative may accept or refuse any request to conduct a compliance review under paragraph (M)(1) of this rule.

(3) The chief or his or her authorized representative shall, at any compliance review, review the proposed conditions and practices in order to advise whether any such condition or practice may become a violation of any requirement under Chapter 1513. of the Revised Code, these rules, or the permit.

(4) Neither the holding of a compliance review under this rule nor any opinion given by the chief or his or her authorized representative at such review shall affect:

(a) Any rights or obligations of the state or the permittee with respect to any inspection, notice of violation or cessation order, whether prior or subsequent to such compliance review; or

(b) The validity of any notice of violation or cessation order issued with respect to any condition or



AUTHENTICATED,
OHIO LEGISLATIVE SERVICE
COMMISSION
DOCUMENT #295788

practice reviewed at the compliance review.