



Ohio Administrative Code

Rule 1501:13-4-02 Requirements of coal exploration.

Effective: June 28, 2018

(A) Any person who intends to conduct coal exploration operations outside a permit area shall, prior to conducting the exploration, file with the chief a written notice of intention to explore.

(1) Except for exploration of lands designated in accordance with Chapter 1501:13-3 of the Administrative Code as unsuitable for coal mining operations, if a person demonstrates and the chief finds there will be no substantial disturbance of the natural land surface as "substantially disturb" is defined in rule 1501:13-1-02 of the Administrative Code, the person may conduct coal exploration operations under a notice of intention to explore, provided that person complies with the applicable requirements of this rule.

(2) A person intending to conduct coal exploration operations that substantially disturb the natural land surface, including all exploration of lands designated in accordance with Chapter 1501:13-3 of the Administrative Code as unsuitable for coal mining operations, shall, in addition to filing a written notice of intention to explore, be issued an exploration permit prior to conducting the exploration.

(B) Notice of intention to explore. The written notice required for coal exploration operations under paragraph (A) of this rule shall include:

(1) The name, address, and telephone number of the person seeking to explore;

(2) The name, address, and telephone number of the representative who will be present at and responsible for conducting the exploration activities;

(3) A description to reasonably identify the exploration area, including a map of a scale of no greater than one inch equals one thousand feet, which shall be attached to the notice of intention showing the location of the exploration area as well as access to the proposed area;

(4) A statement of the period of intended exploration;



- (5) A description of the methods and equipment to be used to conduct the exploration operation;
 - (6) If the surface is owned by a person other than the person seeking to explore, a description of the basis upon which the person seeking to explore claims the right to enter that land for the purpose of conducting exploration and reclamation;
 - (7) A description of the practices that will be followed to reclaim the area and to protect the environment from the adverse impacts of the exploration operations; and
 - (8) A statement that the person seeking to explore believes that the exploration operations will not substantially disturb the natural land surface.
- (C) The chief, or an authorized representative of the chief, shall promptly review notices of intention to explore.

For exploration operations which the person seeking to explore believes will not substantially disturb the natural land surface, the person shall give reasonable notice to the division of mineral resources management district office having jurisdiction over the exploration area of the approximate date that the exploration will begin and shall give telephone notice on the date of commencement of any exploration activities.

- (1) If the chief or an authorized representative of the chief finds the exploration operations will not substantially disturb the natural land surface, he or she shall provide written notice to the person seeking to explore that the notice of intention has been reviewed and the person may begin exploration. Based on determination by the chief, exploration operations that involve only drilling activities may not be considered substantial disturbance of the natural land surface. Drilling activities that will affect lands designated in accordance with Chapter 1501:13-3 of the Administrative Code as unsuitable for coal mining operations will be considered substantial disturbance.
- (2) If the chief or a representative of the chief finds that the exploration operations will substantially disturb the natural land surface, he or she shall notify the person seeking to explore that the notice of intention has been reviewed and the person must submit an application for and be issued an



exploration permit before beginning exploration. The chief shall, by order, issue or deny the exploration permit within a reasonable period of time.

(D) Coal exploration under an exploration permit. Any person who intends to conduct coal exploration operations outside a permit area during which more than two hundred fifty tons of coal will be removed or which will substantially disturb the natural land surface, including exploration on lands designated as unsuitable for coal mining operations, shall, prior to conducting the exploration, submit an application and obtain written approval from the chief for an exploration permit. Such exploration shall be subject to the requirements of paragraphs (E) to (L) of this rule. Each application for an exploration permit shall contain, at a minimum, the following information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name, address and telephone number of the applicant's representative who will be present at and responsible for conducting the exploration activities;
- (3) A narrative describing the proposed exploration area;
- (4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation;
- (5) An estimated timetable for conducting and completing each phase of the exploration and reclamation;
- (6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amount;
- (7) If applicable, a statement of why extraction of more than two hundred fifty tons of coal is necessary for exploration;
- (8) A description of:
 - (a) Cultural or historical resources listed on the "National Register of Historic Places," administered



by the national parks service, U.S. department of the interior. The website for the "National Register of Historic Places" for Ohio sites is www.nationalregisterofhistoricplaces.com/oh/state.html;

(b) Cultural or historical resources known to be eligible for listing on the "National Register of Historic Places," as referenced in paragraph (D)(8)(a) of this rule;

(c) Known archeological resources located within the proposed exploration area; and

(d) Any other information which the chief may require regarding known or unknown historic or archeological resources;

(9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) identified within the proposed exploration area;

(10) A description of the measures to be used to comply with rule 1501:13-8-01 of the Administrative Code;

(11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;

(12) A map or maps at a scale of 1:24,000, or larger, showing the areas of land to be disturbed by the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed locations of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; the location of excavated earth or waste-material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(13) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation; and



(14) For any lands listed in rule 1501:13-3-03 of the Administrative Code, a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of section 1513.073 of the Revised Code and rules adopted thereunder, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of section 1513.073 of the Revised Code and rules adopted thereunder.

(E) Public notice and opportunity to comment. Upon submittal to the chief of an administratively complete application for an exploration permit, the applicant shall place an advertisement providing public notice of the filing of the application in a newspaper of general circulation in the county of the proposed exploration area.

(1) The public notice shall state the name and address of the person seeking approval, the filing date of the application, the address of the "Division of Mineral Resources Management, 2045 Morse Road, Building H, Columbus, Ohio 43229" where written comments on the application may be submitted, the closing date of the comment period, and a description of the area of exploration.

(2) Any person having an interest which is or may be adversely affected shall have the right to file written comments on the application within ten days after the date the notice was published.

(3) A copy of the newspaper advertisement of the application shall be filed with the chief and made part of the complete application. A proof of publication shall be filed with the chief prior to approval of the application.

(F) Decisions on applications for exploration.

(1) The chief, or a representative of the chief, shall promptly review and within a reasonable period of time act upon an administratively complete application for a coal exploration permit and any written comments.

(2) The chief shall approve an application for a coal exploration permit filed in accordance with this



rule provided that the application is complete and accurate and the chief finds in writing that the applicant has demonstrated that the exploration and reclamation described in the application will:

(a) Be conducted in accordance with this rule, rule 1501:13-8-01 of the Administrative Code, and the applicable provisions of Chapter 1513. of the Revised Code and these rules;

(b) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species;

(c) Not adversely affect any cultural or historical resources listed on the "National Register of Historic Places" as referenced in paragraph (D)(8)(a) of this rule, pursuant to the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.), unless the proposed exploration has been approved by both the chief and the agency with jurisdiction over such matters; and

(d) With respect to exploration activities on any lands protected under section 1513.073 of the Revised Code and rules adopted thereunder, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for coal mining operations. Before making this finding, the chief shall provide reasonable opportunity to the owner of the feature causing the land to come under the protection of section 1513.073 of the Revised Code and rules adopted thereunder, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of section 1513.073 of the Revised Code and rules adopted thereunder, to comment on whether the finding is appropriate.

(3) Terms of approval issued by the chief shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with this rule, rule 1501:13-8-01 of the Administrative Code, Chapter 1513. of the Revised Code, and these rules.

(G) Notice of chief's decision. The chief shall notify the applicant, the appropriate local government officials, and other commenters on the application, in writing, of his or her decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the



chief at the division of mineral resources management district office responsible for inspection of the proposed exploration operations.

(H) Coal exploration compliance duties.

(1) Any person who conducts coal exploration operations pursuant to this rule that substantially disturb the natural land surface shall comply with this rule, rule 1501:13-8-01 of the Administrative Code, Chapter 1513. of the Revised Code and these rules, and any exploration permit term or condition imposed by the chief.

(2) Any person who conducts coal exploration operations pursuant to this rule that do not substantially disturb the natural land surface shall comply with the methods and practices described in the notice of intention filed pursuant to paragraph (B) of this rule and the requirements of rule 1501:13-9-02 of the Administrative Code. In addition, this person shall notify the division of mineral resources management district office having jurisdiction over the exploration area of the date of completion of the exploration and reclamation. The notice of intent shall expire on the first anniversary of the date of its issuance, unless a request for renewal is filed with the chief at least sixty days before the expiration date.

(3) Any person who conducts any coal exploration in violation of this rule, rule 1501:13-8-01 of the Administrative Code, Chapter 1513. of the Revised Code and these rules, or any exploration permit term or condition imposed by the chief shall be subject to the provisions of section 1513.99 of the Revised Code, and rules 1501:13-14-01 to 1501:13-14-06 of the Administrative Code.

(I) Public availability of information.

(1) Except as provided in paragraph (I)(2) of this rule, all information submitted to the chief under this rule shall be made available for public inspection and copying at the local offices of the chief closest to the exploration area.

(2) Information not to be available to the public.

(a) The chief shall not make information available for public inspection if the person submitting it



requests in writing, at the time of submission, that it not be disclosed and the chief determines that the information is confidential.

(b) The chief shall determine that information is confidential only if it concerns trade secrets or is privileged commercial or financial information that relates to the competitive rights of the person intending to conduct coal exploration.

(c) Information requested to be held as confidential shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.

(J) Availability of exploration permit. Each person conducting a coal exploration operation for which the required exploration permit has been issued shall, while in the exploration area, make the exploration permit available for on-site review by the authorized representative of the chief.

(K) Commercial use or sale.

(1) Except as provided under paragraph (K)(2) of this rule or parts 3480 to 3487 of Title 43 of the Code of Federal Regulations, any person who intends to commercially use or sell coal extracted during coal exploration operations under an exploration permit shall first obtain a permit to conduct surface coal mining operations for those operations from the chief under Chapter 1501:13-4 of the Administrative Code.

(2) With the prior written approval of the chief, no permit to conduct coal mining operations is required for the sale or commercial use of coal extracted during exploration operations if such sale or commercial use is for coal testing purposes only. The person conducting the exploration shall file an application for such approval with the chief. The application shall demonstrate that the coal testing is necessary for the development of a coal mining and reclamation operation for which a coal mining operations permit application is to be submitted in the near future, and that the proposed commercial use or sale of coal extracted during exploration operations is solely for the purpose of testing the coal. The application shall contain the following:

(a) The name of the testing firm and the locations at which the coal will be tested;



(b) If the coal will be sold directly to, or commercially used directly by, the intended end user, a statement from the intended end user, or if the coal is sold indirectly to the intended end user through an agent or broker, a statement from the agent or broker. The statement shall include:

(i) The specific reason for the test, including why the coal may be so different from the intended user's other coal supplies as to require testing;

(ii) The amount of coal necessary for the test and why a lesser amount is not sufficient; and

(iii) A description of the specific tests that will be conducted;

(c) Evidence that sufficient reserves of coal are available to the person conducting exploration or its principals for future commercial use or sale to the intended end user, or agent or broker of such user identified above, to demonstrate that the amount of coal to be removed is not the total reserve, but is a sampling of a larger reserve; and

(d) An explanation as to why other means of exploration, such as core drilling, are not adequate to determine the quality of the coal and/or the feasibility of developing a surface coal mining operation.

(L) A person adversely affected by a decision of the chief to approve or deny an exploration permit may file an appeal pursuant to section 1513.13 of the Revised Code.

(M) For dates of federal rules and federal laws referenced in this rule, see rule 1501:13-1-14 of the Administrative Code.