



Ohio Administrative Code

Rule 1501:13-4-06 Permit applications, revisions, and renewals, and transfers, assignments, and sales of permit rights.

Effective: June 28, 2018

(A) Applications for permits and permit renewals shall:

- (1) Be submitted on forms provided by the chief;
- (2) Be filed with the proper number of copies and at places designated by the chief;
- (3) Be deemed to be complete as submitted to the chief unless the chief, within fourteen business days of the submission, identifies deficiencies in the application in writing and sends a written list of the deficiencies to the applicant. When the application is complete, the chief shall begin processing the application and notify the applicant of the application number assigned by the chief, so that this number may appear in the public notice required by division (A) of section 1513.071 of the Revised Code. An application for an area adjacent to a permit issued pursuant to section 1513.07 of the Revised Code and these rules may reference information previously submitted as part of the application for that permit if the information is applicable;
- (4) Show the name, address, and telephone number of the person who prepared the application if that person is someone other than an employee of the applicant;
- (5) Include the name and address of the newspaper in which the applicant is to publish the notice required by division (B)(1)(f) of section 1513.07 of the Revised Code;
- (6) Include the telephone number of the applicant, of the operator if the applicant is not the operator, and of the applicant's statutory agent; and
- (7) Include the employer identification number of the applicant, or the last four digits of the social security number of the applicant if the applicant is a sole proprietorship or partnership.

(B) Additional requirements for permit renewals.



- (1) Any permit issued shall have the right of successive renewal upon expiration, provided the renewal complies with the requirements of paragraphs (A) and (B) of this rule.
- (2) In addition to the requirements of paragraph (A) of this rule, an application for renewal shall:
 - (a) Be filed with the chief at least one hundred twenty days before the expiration of the permit involved; and
 - (i) Be submitted on an application form for a new permit if the renewal application includes land area that was not in the valid existing permit; or
 - (ii) Be submitted on a permit renewal application form if the renewal application includes only land area that was in the valid existing permit; and
 - (b) Include the name and address of the permittee, the term of the renewal requested, and the permit number;
 - (c) Include evidence that a liability insurance policy or adequate self-insurance under rule 1501:13-7-07 of the Administrative Code will be provided by the applicant for the proposed period of renewal;
 - (d) Include evidence that the performance security in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional performance security required by the chief pursuant to Chapter 1501:13-7 of the Administrative Code;
 - (e) Include additional revised or updated information required by the chief;
 - (f) Be subject to the requirement of division (A)(4) of section 1513.07 of the Revised Code;
 - (g) Include a copy of the newspaper notice and proof of publication as required by paragraph (H) of rule 1501:13-4-03 of the Administrative Code; and
 - (h) Be subject to the public notification, public participation, and hearing provisions in sections



1513.07 and 1513.071 of the Revised Code.

(3) Applications for renewal that include proposed revisions to the permit.

(a) If an application for renewal that includes proposed revisions to the permit is submitted on an application form for a new permit pursuant to paragraph (B)(2)(a)(i) of this rule, then the requirements for a permit revision under paragraph (E) of this rule shall not apply.

(b) If an application for renewal that includes any proposed revisions to the permit is submitted on a permit renewal form pursuant to paragraph (B)(2)(a)(ii) of this rule, then the revisions shall be identified and subject to the requirements of paragraph (E) of this rule.

(4) In the determination of whether to approve or deny a renewal of a permit, the burden of proof shall be on the opponents of renewal.

(C) Any revisions to an application shall:

(1) Be initialed and dated by the person making revisions. The name of the person shall be provided in the application in the space provided; and

(2) Be acknowledged in writing by the signature of the applicant in the application in the space provided. Such acknowledgement shall be dated by the applicant.

(D) For an application for which the applicant requests the chief to prepare the determinations of the probable hydrologic consequences as provided for by division (A)(4) of section 1513.02 of the Revised Code:

(1) The applicant shall submit:

(a) A request in writing to the chief at least sixty days prior to the time that the applicant intends to submit the application for a permit;

(b) On forms provided by the chief, the following information:



- (i) The name of the watershed and location of the stream which will receive drainage discharged from the mining operation (the location of the stream may appear on the hydrologic map);
 - (ii) A statement of the quality and locations of subsurface water as required by division (B)(1)(n)(ii) of section 1513.07 of the Revised Code;
 - (iii) A description of the measures to be taken during mining and reclamation to assure protection of the quality and quantity of surface and ground water systems both on and off-site from the adverse effects of the mining and reclamation operations as required by division (C)(13) of section 1513.07 of the Revised Code; and
 - (iv) A description of the steps to be taken to comply with applicable water quality laws and regulations;
- (c) A map prepared in accordance with division (B)(1)(m) of section 1513.07 of the Revised Code and Chapter 1501:13-4 of the Administrative Code showing the information required by division (B)(1)(m) of section 1513.07 of the Revised Code and Chapter 1501:13-4 of the Administrative Code;
- (d) Cross-section maps or plans as related to hydrologic studies prepared in accordance with division (B)(1)(n)(i) of section 1513.07 of the Revised Code and Chapter 1501:13-4 of the Administrative Code, showing the information required by division (B)(1)(n)(i) of section 1513.07 of the Revised Code and Chapter 1501:13-4 of the Administrative Code; and
- (e) The results of test borings as required by division (C)(12) of section 1513.07 of the Revised Code, submitted on a form provided by the chief;
- (2) If the items required by paragraph (D)(1) of this rule are not complete or need revision, the chief shall not be required to prepare the determination of the probable hydrologic consequences. The chief shall notify the requestor by certified mail of those items that are incomplete or need revision. The sixty-day time period for preparation by the chief shall stop on the date the requestor receives the certified mail or reasonably should have received the certified mail, whichever is earlier. The sixty-day period shall resume upon receipt by the division of mineral resources management of the



items that need to be completed or revised;

(3) The chief shall prepare the determination of the probable hydrologic consequences within sixty days of receipt of the items required by paragraph (D) of this rule. Those days during which the requestor is revising or making the request complete shall not be included in the sixty days allowed the chief;

(4) The chief shall submit the prepared determination of the probable hydrologic consequences to the requestor and at the same time return the items that were required to be submitted by the requestor by paragraph (D) of this rule; and

(5) The person requesting the preparation of the determination of the probable hydrologic consequences shall include the chief's determination as part of a complete application for a permit.

(E) Revisions to permits shall:

(1) Be obtained when:

(a) There are changes from the mining or reclamation operations as described in the approved plans for the original permit;

(b) Required by an order issued pursuant to paragraph (G) of this rule;

(c) As otherwise required by Chapter 1513. of the Revised Code or these rules;

(2) Be subject to the notice and hearing requirements when the changes in the mining and reclamation plan constitute a significant alteration from mining and reclamation operations contemplated in the original permit. Changes which constitute a significant alteration are those which:

(a) Revise the plan to include the dumping of hazardous chemical wastes and solid wastes;

(b) Revise the plan to include the permanent relocation of a perennial stream;



- (c) Revise the plan to include the use of explosives;
 - (d) Revise the plan to include the construction of an excess spoil disposal fill;
 - (e) Revise the plan to include the construction of a coal processing waste bank;
 - (f) Revise the plan to include the use of waste material as fill;
 - (g) Revise the plan to change the postmining land use pursuant to rule 1501:13-9-17 of the Administrative Code;
 - (h) Revise the plan to change the subsidence control plan;
 - (i) Revise the plan to change to a concurrent surface and underground mining operation;
 - (j) Revise the plan to include the construction of either a permanent or temporary impoundment that has an embankment more than twenty feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway or has a storage volume of twenty-acre feet or more;
 - (k) Revise the plan to include a variance from approximate original contour; or
 - (l) Any other revision which the chief, by order, determines to be significant;
- (3) Be filed with the chief:
- (a) Prior to making changes in the mining and reclamation operations;
 - (b) If the change is required by paragraph (G) of this rule, within the time period specified in the order;
- (4) Be approved or disapproved by the chief within ninety days of receipt of a complete revision



request, provided that failure to disapprove shall not be deemed approval and that significant revisions in the reclamation plan shall be subject to notice and hearing requirements in accordance with paragraph (E)(2) of this rule;

(5) Be reviewed by the chief to determine whether a new or updated probable hydrologic consequences determination shall be required pursuant to either paragraph (E)(2) of rule 1501:13-4-05 or paragraph (E)(2) of rule 1501:13-4-14 of the Administrative Code;

(6) Be reviewed by the chief to determine whether a new or updated cumulative hydrologic impact assessment shall be required pursuant to divisions (B)(1)(k) and (E)(2)(c) of section 1513.07 of the Revised Code; and

(7) Be reviewed by the chief to determine if an adjustment of the estimated cost of reclamation shall be required pursuant to paragraph (E) of rule 1501:13-7-02 of the Administrative Code.

(F) Any extensions to the area covered by a permit, except for incidental boundary revisions, shall be made by application for a new permit.

(G) The chief shall review each permit.

(1) Review by the chief shall occur not later than the middle of the permit term or every five years whichever is more frequent. After this review, the chief may require, by order to the permittee, reasonable revision or modification of the permit provision to ensure compliance with Chapter 1513. of the Revised Code and these rules.

(2) Permits that include provisions for mountaintop removal operations, experimental practices, variances from approximate original contour, or variances for delay in contemporaneous reclamation for combined strip and underground mining operations shall be reviewed by the chief as required by rule 1501:13-4-12 of the Administrative Code. Upon completion of the review, the chief may order revisions or modifications of the mining and reclamation plan to ensure compliance with Chapter 1513. of the Revised Code and Chapter 1501:13-9 of the Administrative Code. The order shall be in writing and shall set forth the findings that require the revisions or modifications.



(H) Transfer, assignment, or sale of permit rights.

(1) Any person seeking to succeed by transfer, assignment, or sale to the rights granted by a permit shall, prior to the date of such transfer, assignment or sale:

(a) Obtain appropriate performance security coverage for the permitted operation by:

(i) Obtaining transfer of the original performance security coverage of the original permittee, provided that the successor meets the eligibility requirements of paragraph (C)(2)(a) of rule 1501:13-7-01 of the Administrative Code where performance security is to be provided together with reliance on the reclamation forfeiture fund in accordance with paragraph (C)(2) of that rule; or

(ii) Providing sufficient performance security in accordance with Chapter 1501:13-7 of the Administrative Code.

(b) Obtain insurance coverage in accordance with rule 1501:13-7-07 of the Administrative Code;

(c) Provide the chief with an application for approval of such proposed transfer, assignment, or sale including:

(i) The name and address of the existing permittee and permit number;

(ii) A brief description of the proposed action requiring approval;

(iii) The name and address of the person proposing to succeed by such transfer, assignment, or sale and the name and address of that person's resident agent; and

(iv) The same information as is required by rules 1501:13-4-03 and 1501:13-7-07 of the Administrative Code for applications for new permits for those activities; and

(d) Obtain the written approval of the chief for transfer, assignment, or sale of rights, according to paragraph (H)(4) of this rule.



(2) Prior to the approval of the transfer, assignment or sale, the chief may require that any civil penalties assessed on the permit be paid. No transfer, assignment or sale will be approved if the person succeeding to the permit owes civil penalties to the state.

(3) Advertisement and comment.

(a) The person applying for approval of such transfer, assignment or sale of rights granted by a permit shall advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the original permittee, the permit number and particular geographic location of the permit, and the address to which written comments may be sent under this paragraph.

(b) Any person whose interests are or may be adversely affected, including, but not limited to, the head of any local, state or federal government agency may submit written comments on the application for approval to the chief within ten days after the advertisement of the application is published.

(4) The chief may, upon the basis of the applicant's compliance with the requirements of paragraphs (H)(1) to (H)(3) of this rule, grant written approval for the transfer, sale, or assignment of rights under a permit, if he or she first finds, in writing, that:

(a) The person seeking approval will conduct the operations covered by the permit in accordance with the requirements of Chapter 1513. of the Revised Code and these rules;

(b) The applicant is eligible to receive a permit in accordance with paragraphs (E) and (F) of rule 1501:13-5-01 of the Administrative Code;

(c) The applicant has, in accordance with paragraph (H)(1)(a) of this rule, submitted performance security as required by Chapter 1501:13-7 of the Administrative Code in an amount at least equivalent to the performance security of the original permittee; and

(d) The applicant will continue to conduct the operations involved in full compliance with the terms and conditions of the original permit, unless and until the applicant has obtained a new permit.



(5) Notification.

(a) The chief shall notify the permittee, the successor, commenters, and the office of surface mining of his or her findings.

(b) The successor shall immediately provide written notice to the chief of the consummation of the transfer, assignment, or sale of permit rights.

(I) The permittee shall notify the chief within a reasonable amount of time not later than thirty days after any addition, departure, or change in the persons required to be shown in the permit application, pursuant to division (B)(1)(d) of section 1513.07 of the Revised Code, by submitting, in writing, the following information:

(1) The person's name, address, and telephone number;

(2) The person's position title and relationship to the applicant, including percentage of ownership and location in the organizational structure;

(3) The date the person began functioning in the position; and

(4) The date of any departure.

(J) The permittee shall notify the chief in writing of any change in the address of the principal place of business required in the permit application, pursuant to paragraph (B)(1)(a) of rule 1501:13-4-03 of the Administrative Code.

(K) For those applicants who qualify for the small operator assistance program (S.O.A.P.), the applicant shall initiate action for the assistance sufficiently in advance to allow the division time to prepare the information required by paragraph (A) of rule 1501:13-6-03 of the Administrative Code. The applicant shall submit the information required under paragraph (D) of rule 1501:13-6-03 of the Administrative Code at the time of filing a complete permit application.



(L) Subsequent to any amendment of Chapter 1513. of the Revised Code or adoption of new or amended rules, the applicant shall revise those applications on file with the chief to comply with the permit requirements of the amended chapter or new or amended rules. This paragraph does not apply to those applications for which a permit has been issued except as provided under paragraph (G) of this rule.

(M) Determinations of the chief under this rule may be appealed to the reclamation commission pursuant to section 1513.13 of the Revised Code.