



## Ohio Revised Code

### Section 1514.13 Establishing projected cone of depression for surface mining operation that may result in dewatering.

Effective: July 17, 2009

Legislation: House Bill 1 - 128th General Assembly

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(A) The chief of the division of mineral resources management shall use the compilation of data for ground water modeling submitted under section 1514.02 of the Revised Code to establish a projected cone of depression for any surface mining operation that may result in dewatering. The chief shall consult with the chief of the division of soil and water resources when projecting a cone of depression. An applicant for a surface mining permit for such an operation may submit ground water modeling that shows a projected cone of depression for that operation to the chief, provided that the modeling complies with rules adopted by the chief regarding ground water modeling. However, the chief shall establish the projected cone of depression for the purposes of this section.

The chief shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing requirements and standards governing both of the following:

- (1) Ground water modeling for establishing a projected cone of depression. A ground water model shall be generally accepted in the scientific community.
- (2) Replacement of water supplies.

(B)(1) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the chief receives a written complaint, the chief immediately shall send a copy of the complaint to the operator, and the operator immediately shall respond by sending the chief a statement that



explains how the operator resolved or will resolve the complaint. If the operator receives a written complaint, the operator immediately shall send to the chief a copy of the complaint and include a statement that explains how the operator resolved or will resolve the complaint. Not later than seventy-two hours after receipt of the complaint, the operator shall provide the owner a supply of water that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. The operator shall maintain that water supply until the operator provides a permanent replacement water supply to the owner under division (B)(3) of this section or until the division of mineral resources management completes the evaluation under division (B)(2) of this section, whichever is applicable.

(2) A rebuttable presumption exists that the operation caused the diminution, contamination, or interruption of the owner's water supply. However, not later than fourteen days after receipt of the complaint, the operator may submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply. The division shall evaluate the information submitted by the operator to determine if the presumption is rebutted. If the operator fails to rebut the presumption, the division immediately shall notify the operator that the operator failed to rebut the presumption. Not later than fourteen days after receipt of that notice, the operator shall provide the owner a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply. If the operator rebuts the presumption, the division immediately shall notify the operator that the operator rebutted the presumption, and, upon receipt of that notice, the operator may cease providing a supply of water to the owner under division (B)(1) of this section.

(3) If, within fourteen days after receipt of the complaint, the operator does not submit to the division information showing that the operation is not the proximate cause of the diminution, contamination, or interruption of the owner's water supply, the operator shall provide the owner, not later than twenty-eight days after receipt of the complaint, a permanent replacement water supply that is comparable, in quantity and quality, to the owner's water supply prior to the diminution, contamination, or interruption of the owner's water supply.

(4) The division may investigate a complaint under division (B) of this section.



(C) If an owner of real property who obtains all or part of the owner's water supply for domestic, agricultural, industrial, or other legitimate use from ground water has a diminution, contamination, or interruption of that water supply and the owner's real property is not located within the projected cone of depression of a surface mining operation established under this section, the owner may submit a written complaint to the operator of that operation or to the chief informing the operator or the chief that there is a diminution, contamination, or interruption of the owner's water supply. The complaint shall include the owner's name, address, and telephone number.

If the operator receives a written complaint, the operator immediately shall send the chief a copy of the complaint. If the chief receives a written complaint, the chief immediately shall send the operator a copy of the complaint. The chief shall investigate any complaint submitted under this division and, upon completion of the investigation, immediately shall send the results of the investigation to the operator and to the owner that filed the complaint.

An owner that submits a written complaint under this division may resolve the diminution, contamination, or interruption of the owner's water supply with the operator of that operation or may commence a civil action for that purpose.

(D) An operator may request the chief to amend the plan of mining and reclamation filed with the application under section 1514.02 of the Revised Code when a ground water user may affect the projected cone of depression established for the operation under division (A) of this section. The operator shall submit additional data that reflect the ground water user's impact on the ground water. The chief shall perform ground water modeling using the additional data and may establish a revised projected cone of depression for that operation.

(E) This section shall not be construed as creating, modifying, or affecting any right, liability, or remedy of surface riparian owners.