

## CHAPTER 1115 - WELLFIELD PROTECTION

### **1115.01 - Purpose.**

The purpose of this chapter is to safeguard the public health, safety and welfare by establishing a Wellfield protection ordinance to protect the public water supply of the City of Columbus. This shall be accomplished by implementing regulations that control the following activities in defined Wellfield Protection Areas:

- (1) Use of regulated or potentially damaging substances; and
- (2) Mining of industrial materials.

These activities shall be controlled within specifically defined areas for Wellfield protection in and around any Wellfield operated by the City of Columbus to obtain public drinking water supply.

These regulations are intended to provide for the protection and availability of existing and future potable water supply by instituting rational and objective standards and criteria for the control of toxic, hazardous or any other substances or activity which adversely impact the ground water supply within specifically defined geographic areas in and around the City's present and future wellfields, thereby enhancing the protection of the public potable water supply.

### **1115.02 - Scope.**

The provisions of this chapter shall be effective within the City of Columbus corporate limits and outside of the corporate limits to the maximum extent allowed by Ohio Revised Code ~~Section~~ sections 743.25, 3750.11(G), and any other state or federal law. Nothing contained in this chapter shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this ordinance. Nothing contained in this chapter shall be construed so as to interfere with the duties and powers of the Director of Public Utilities of the City of Columbus, Ohio.

### **1115.03 - Administration.**

Except as otherwise provided herein, the Director of Public Utilities of the City of Columbus, Ohio, or his designated agents shall administer, implement and enforce the provisions of this chapter.

### **1115.04 - Definitions.**

As used in the Wellfield protection rules:

- (1) "~~Above-ground Storage~~ Tank" means a device meeting the definition of "tank" in this rule but which is not an underground storage tank as defined in 1115-04(30) of this Chapter.
- (2) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.
- (3) "Board" means the Board of Wellfield Protection Appeals.
- (4) "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendment and Reauthorization Act, 42 U.S.C. Sec. 9601 et seq.
- (5) "Certification" means a statement of professional opinion based upon knowledge and belief.

- (6) "Day" means a calendar day.
- (7) "Director" means the Director of Public Utilities of the City of Columbus, Ohio, or his designee.
- (8) "Environmental Audit" means an environmental audit as required by Section 1115.08 hereof.
- ~~(9) "Environmental Assessment of Estimated Effect" or "EAEE" means an environmental assessment of estimated effect as required by Section 1115.08 hereof.~~
- ~~(10)~~(9) "Facility" means any premises located in a Wellfield Protection Area the use of which could impact the use of the underlying or adjacent aquifer for public drinking water supply. This definition includes but is not limited to buildings, storage areas, mining or processing operations, septic tanks, farming operations and related activities.
- (10) "Fifty-Five (55) Gallon Drum" means a cylindrical container constructed of steel, plastic, or dense paperboard (commonly called a fiber drum) having a capacity of fifty-five (55) gallons.
- (11) "Ground water" means water below the land surface in a zone of saturation.
- (12) "Hazardous Waste" means a hazardous waste as defined in rule 3745-51-03 of the Ohio Administrative Code or its successors.
- (13) "Journal" means the record or document into which all final actions of the Director are entered as required by section 1115.13 hereof.
- (14) "Mineral Processing Waste" means the sands, fine sands, silts, and clays ~~which are,~~ and other residual materials generated from on-site mineral processing activities.
- (15) "Month" means a calendar month.
- ~~(16) "NRCA" means No Required Corrective Action.~~
- ~~(17)~~(16) "Operator" means any person who is directly responsible for the overall operation of a Facility.
- ~~(18)~~(17) "OSHA" means the Occupational Safety and Health Act, 29 U.S.C. 651 et seq.
- ~~(19)~~(18) "Owner" means the person who owns a Facility or part of a Facility.
- ~~(20)~~(19) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, the state, a municipality, commission, political subdivision of the state, or any interstate body.
- ~~(21)~~(20) "Regulated Substance" means any substance which the Director has designated and listed as regulated according to the provisions of 1115.06 of this chapter.
- (21) "Request to Use Additional Regulated Substances" means a request to use additional regulated substances as required by Section 1115.08 hereof.
- (22) "Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

- (23) "SDWA" means the Safe Drinking Water Act, as amended, 42 U.S.C., Sec. 300f et seq.
- (24) "Spill" means the spillage, leaking, pumping, pouring, emitting, or dumping of regulated substances or materials which, when spilled, become regulated substances into or on any land or water.
- (25) "State" means the state of Ohio.
- (26) "Storage" means the holding of regulated substances for a temporary period, at the end of which the regulated substance is treated, disposed of, or stored elsewhere.
- (27) "Tank" means a stationary device, designed to contain an accumulation of Regulated Substances which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.
- (28) "Tank System" means a Regulated Substances storage or treatment tank and its associated ancillary equipment and containment system.
- (29) "TSCA" means the Toxic Substance Control Act, as amended, 15 U.S.C. 2601 et seq.
- (30) "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of Regulated Substances and the volume of which (including volume of underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground.
- (31) "Use" means the handling, placement, deposit, production, transportation, processing, transfer, treatment, storage, disposal, maintenance or installation of regulated substances.
- (32) "User" means any person who uses Regulated Substances.
- (33) "Utilities Department" means Department of Public Utilities of the City of Columbus, Ohio.
- (34) "Waste" means a waste as defined in rule 3745-51-02 of the Ohio Administrative Code or its successors. Mining overburden which remains on-site shall not be considered waste for purposes of this chapter.
- (35) "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from collapsing.
- (36) "Wellfield Protection Area I" or "WPI" means the land area within one thousand (1,000) feet of the outermost wall or casing of any present or future city-owned and operated public water supply well.
- (37) "Wellfield Protection Area II" or "WPPII" means the land area surrounding any public water supply Wellfield not included in WPI which is delineated by the five-year travel time contour based on the ground water gradients of the area as designated on the Director's hydrogeologic map.
- (38) WPI and WPPII are hereinafter sometimes referred to as the Wellfield Protection Area or Areas.
- (39) "Year" means a calendar year.

**1115.05 - Maps of Wellfield Protection Areas; Applicability.**

The Director shall maintain hydrogeologic maps designating areas of protection in WPI and WPII where ground water supplies are vulnerable to contamination and there is a level of risk that contaminants can be transported or otherwise find a way into the City's present and future public potable water supply wells and wellfields. These maps shall clearly designate the location of WPI and WPII.

The Director shall approve the areas ~~initially~~ designated as WPI and WPII on the maps ~~and any modification of such designations thereafter~~. Designations of WPI and WPII Areas shall not be valid without approval of the Director.

Modifications shall be subject to public notice and appeal to the Board as provided in Section 1115.13 of these rules. Such maps shall be available for inspection at all times during normal business hours.

It is the responsibility of any person owning property and/or owning or operating a business to make a determination of the applicability of this chapter as it pertains to the property and/or business under said person's ownership or operation and failure to do so shall not excuse any violations of this chapter.

#### **1115.06 - Regulated Substances.**

Regulated substances are chemicals and mixtures of chemicals which are hereby deemed to be health hazards. The Director shall establish and maintain a list of these substances subject to annual review and modification. The ~~initial~~ list of these substances and any subsequent modifications of the list shall be subject to public notice and appeal to the Board as provided in Section 1115.13. Regulated Substances may include any of the following:

(A) Chemicals which are regulated by SDWA, TSCA, RCRA, OSHA, CERCLA, or other state and/or federal environmental laws and regulations, or for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxin, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, obnoxious substances causing odor and taste problems, and agents which damage the lungs, skin, eyes, or mucous membranes.

(B) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(C) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1) percent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) percent or greater than the composition on a weight per weight basis.

(D) Ingredients of mixtures prepared within a Wellfield Protection Area in cases where such ingredients are health hazards except those ingredients which comprise less than one tenth of one (0.1) percent of the mixture (on a weight per unit weight basis) if carcinogenic, or less than one (1) percent of the mixture (on a weight per unit weight basis) if non-carcinogenic.

(E) Petroleum and nonsolid petroleum derivatives (except non-PCB dielectric fluids).

(F) Pesticide and herbicides.

(G) Other substances which in the judgment of the Director, pose a potential health hazard to the water supplies or to human health.

**1115.07 - Wellfield Protection Areas.**

Wellfield Protection Areas shall be determined, instituted and administered in accordance with rules and regulations promulgated by the Director, provided designations of Wellfield Protection Areas are contingent on the Director's approval. The extent of such Wellfield Protection Areas shall reflect the descriptions in Section 1115.04(36) and (37) and shall be shown on maps maintained by the Director.

If a portion of a Facility is located within a Wellfield Protection Area, the entire Facility shall be governed by this chapter.

**1115.08 - Prohibitions and Restrictions Within Wellfield Protection Areas.**

(A) No person shall use any Regulated Substance in any Wellfield Protection Area in violation of a law, statute, ordinance, rule or regulation.

~~(B) An existing use or approved use of any Regulated Substance within Wellfield Protection Areas shall not be increased except in accordance with this chapter. No person shall use Regulated Substances in any Wellfield Protection Area (WPI or WPII) unless an environmental audit ("Environmental Audit") has been completed by the Owner of the Facility where the Regulated Substance will be used.~~

(C) Additional restrictions within Wellfield Protection Area I

~~(1) No person other than the Owner of the property or persons acting with the consent of the Owner shall enter Wellfield Protection Area I; provided, however, authorized employees or agents of the city, environmental or regulatory agency representatives and law enforcement and emergency officials with a demonstrable need for access may be allowed to enter Wellfield Protection Area I. No person shall use any Regulated Substance in Wellfield Protection Area I for any purpose other than public water utility purposes.~~

~~(2) No person shall use any Regulated Substance in Wellfield Protection Area I for any purpose other than public water utility purposes. No person other than the Owner of the property or persons acting with the consent of the Owner shall enter Wellfield Protection Area I; provided, however, authorized employees or agents of the city, environmental or regulatory agency representatives and law enforcement and emergency officials with a demonstrable need for access may be allowed to enter Wellfield Protection Area I.~~

~~(D) Wellfield Protection Area. Except as provided in subsections (C), (D) and (E) of this section and, in Sections 1115.09 hereof, no person shall use a Regulated Substance in a Wellfield Protection Area. If the use of the Regulated Substance has been approved by the Director, or the regulated substance has been used in a Wellfield Protection Area prior to the effective date of this chapter, the User may use the Regulated Substance if it complies with the following procedures: An approved use of any Regulated Substance within Wellfield Protection Areas shall not be increased except in accordance with this chapter.~~

~~(1) Within one hundred eighty (180) days of the effective date of this chapter, or approval by the Director, all Users of Regulated Substances in a Wellfield Protection Area shall submit an environmental audit ("Environmental Audit") of their Facility. The Environmental Audit will shall address the following points:~~

(E) Environmental Audit: An Environmental Audit shall address the following points:

~~(a)(1) A physical description of the Facility which will include a site plan, which at a minimum will clearly define the location and boundaries of the Facility;~~

~~(b)~~(2) The exact type, amount, physical characteristics and known health effects of any Regulated Substance used;

~~(c)~~(3) The potential for release of the Regulated Substances during its use or storage;

~~(d)~~(4) Any known prior releases of Regulated Substances to the surface soil, subsoil and/or ground water;

~~(e)~~(5) Recommendations for corrective actions if any prior releases as described in subparagraph ~~(d)~~ above have occurred; and

~~(f)~~(6) Plans and schedules for implementation of any recommended corrective actions.

The Environmental Audit will be conducted by an independent, licensed engineering firm or licensed engineer not employed by the ~~User~~ Owner and qualified to conduct such investigation. The ~~User~~ Owner may submit an Environmental Audit conducted by a licensed engineer employed by the ~~User~~ Owner, who is qualified to conduct such investigation; provided, however, the Director reserves the right to have an independent Environmental Audit conducted at the User's expense. The Director also reserves the right to approve the qualifications of any person conducting an Environmental Audit, and if the Director desires, to have an Environmental Audit conducted at the City of Columbus' expense. The Director will complete his review of the Environmental Audit and send his comments, if any, within sixty (60) days of receipt of the Environmental Audit.

(F) Compliance schedule for Owners of any Facility where Regulated Substances are used who have not submitted an Environmental Audit:

(1) These Owners are defined as:

(a) Owners that acquire property within the Wellfield Protection Area who do not already have an Environmental Audit on file with the Director. These Owners must submit an Environmental Audit within one hundred eighty (180) days from the day the property transfer is recorded.

(b) Owners that own property that is located within a newly created or modified Wellfield Protection Boundary (WPI or WPII). These Owners must submit an Environmental Audit within one hundred eighty (180) days from the day the Director approves the new boundary.

(2) Based on the results of the ~~User's~~ Owner's Environmental Audit or an independent Environmental Audit conducted by the Director, the Director will, if appropriate, issue a notice of Required Corrective Action ("Required Corrective Action"). The Director shall issue such a notice of Required Corrective Action within six (6) months of his receipt of the Environmental Audit. If the Director does not issue the Required Corrective Action notice within the six (6) month period, the Director then shall have the burden of proving that such a Required Corrective Action is necessary.

(3) The ~~User~~ Owners will have three hundred sixty (360) days after the issuance of the Required Corrective Action in which to implement the Required Corrective Action. If the Required Corrective Action has not been implemented within this time, the Director may conduct the remedial work at the User's expense. Failure to comply with the Required Corrective Action will be subject to the penalties provided in Section 1115.99 hereof. In addition, the Facility will be classified as nonconforming, and any future use by the Owner or other future Owners or Users of any portion of the property will be required to conform as a nonuser of Regulated Substances, with the exceptions being those outlined in subsection ~~(E)~~ of this section, or in accordance with Section 1115.14.

~~(4) If the User has received the prior approval of the Director for the use of the Regulated Substances or, if the Environmental Audit has been submitted or is in the process of being submitted in accordance with this subsection (D) and the Required Corrective Action has been completed or is in the process of being completed in accordance with the Required Corrective Action plan, the User may use Regulated Substances at the level approved by the Director or the level in effect at the time this chapter becomes effective.~~

~~(G) If the a User intends to expand the Facility to use additional quantities and/or types of Regulated Substances consistent with the nature of the business which was approved by the Director or was being conducted at the facilities when this chapter became effective, the User shall submit an a Request to Use Additional Regulated Substances environmental assessment of estimated effect. The This request environmental assessment of estimated effect shall contain the following:~~

~~(a)(1) A statement of the estimated increase in quantity of description of the Regulated Substance to be considered, which shall include the exact type, amount, and physical characteristics and known health effects of the Regulated Substances;~~

~~(b)(2) An assessment of the potential for releases environmental and health effects that the increased use of the Regulated Substance will have on the affected population and how the Facility will prevent these as the result of any change in the use or approved use and its potential health effects on the affected population.~~

An increase in the quantity or a change in the character of an approved or existing use of the Regulated Substances will require the approval of the ~~environmental assessment of estimated effect by the Director~~. The Director shall act on the ~~EAAA~~ Request to Use Additional Regulated Substances within sixty (60) days of its receipt by him. If the Director does not act within sixty (60) days, the increase or change in use shall be deemed denied.

~~(5)(H)~~ Those Facilities which are in compliance with the provisions of this chapter will be issued a Regulated Substance User permit. This permit will be subject to yearly renewal. Renewal will be based on inspections conducted by the Director or his designated agents. If a Facility changes ownership during the year a permit is issued, the permit will no longer be valid as of the date the Facility changes ownership, and be subject to reissuance to the new Facility Owner.

~~(E)(I)~~ Exclusions. Notwithstanding any other provisions of this chapter to the contrary, exclusions set forth in this subsection ~~(E)~~ shall apply; and provided further that any spill, discharge or mishandling shall be subject to the provisions of Section 1115.11(B) of this chapter. Any exclusion granted herein shall not remove or limit the liability and responsibility of any person or activity.

(1) A limited exclusion from the prohibitions and requirements of this chapter is hereby authorized for incidental use of Regulated Substances in Wellfield Protection Area II in the following amounts:

(a) The aggregate of Regulated Substances in use may not exceed two (2) pints or two (2) pounds, whichever is less, at any time;

(b) The total use of Regulated Substances may not exceed ten (10) gallons or eighty (80) pounds, whichever is less, in any twelve (12) month period.

(2) A limited exclusion from the prohibitions and requirements of this chapter is hereby authorized for non-routine maintenance or repair of property or equipment in Wellfield Protection Area II involving the following amounts:

(a) The aggregate of Regulated Substances in use may not exceed ten (10) gallons or eighty (80) pounds, whichever is less, at any time;

(b) The total use of Regulated Substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

(3) An exclusion is hereby authorized for retail activities in Wellfield Protection Area II, provided said activities use any Regulated Substance for resale in their original unopened containers of two (2) gallons each or sixteen (16) pounds each, or less, and having a maximum aggregate inventory of Regulated Substances not exceeding two hundred fifty (250) gallons or two thousand (2,000) pounds at any time. Any person claiming such exclusion shall submit a request for such exclusion in writing to the Director sixty (60) days prior to the date it starts to use the Regulated Substance. In addition, persons claiming such an exclusion must have already submitted an Environmental Audit to the Director within one hundred eighty (180) days of the effective date of this chapter or the date it starts to use the Regulated Substance. The Director shall act on this request within sixty (60) days of its receipt by him. If the Director does not act within sixty (60) days, the use of this exclusion shall be deemed denied.

(4) An exclusion is hereby authorized for the transportation of Regulated Substances through Wellfield Protection Area II, provided, however, that the transporting vehicle is in compliance with applicable city ordinances and federal and state law and regulations, and provided that the Regulated Substances are fueling the transporting vehicle or the transporting vehicle is in continuous transit, making delivery, or is stopped for periods of time not to exceed twenty-four (24) hours.

(5) An exclusion is hereby authorized for the use of oil, fuel or petroleum lubricants in the operation of motor vehicles, farm equipment, and construction equipment in both Wellfield Protection Area I and Wellfield Protection Area II and for mining equipment only in Wellfield Protection Area II to the limited extent that these substances are being used by the motor vehicle or equipment while operating or are contained within reservoirs or tanks of the motor vehicle or equipment when not in operation.

(6) An exclusion is hereby authorized for the use of oil, fuel or petroleum lubricants for the refueling and maintenance of farm equipment, construction equipment and mining equipment only in Wellfield Protection Area II to the limited extent that these substances are necessary for a day's refueling and maintenance of the equipment. The overnight storage of these substances or daily storage of these substances in quantities which are unreasonably in excess of what is needed for a day's refueling and maintenance of equipment is not authorized by this exclusion. The Director's approval is required prior to any use of this exclusion. Persons wishing to claim this exclusion shall submit a request to the Director in writing, which shall include a spill prevention, countermeasure and control, and countermeasure (SPCC) plan as described in Section 1115.11(B)(3) shall be submitted to and approved by the Director prior to any use of this exception. This request shall be submitted no less than sixty (60) days prior to the date the exclusion is desired to take effect. The Director shall act on this request within sixty (60) days of its receipt by him. If the Director does not act within sixty (60) days, the use of this exclusion shall be deemed denied.

#### **1115.09 - Storage Tanks and Pipelines.**

No above-ground or underground storage tank, or pipeline which contains or has contained in the past, a Regulated Substance shall be used in Wellfield Protection Area I or Wellfield Protection Area II without the approval of the Director, which approval shall be in accordance with the standards established by federal, state and local laws, regulations or orders. The Director shall determine whether the tanks or pipelines meet these standards and satisfy the requirements of subsections (a), ~~and~~ (b), (c), (d), (e), and (f) below and shall make such determination within sixty (60) days of the submission of a certificate to him.



If the Director does not act within sixty (60) days of submission of the certification, the tanks or pipelines shall be deemed denied. A registered professional engineer shall certify that all tank and pipeline systems are in compliance with applicable federal and/or state regulations governing such tank and pipeline systems which system shall include:

(a) Adequate facilities to monitor and prevent Regulated Substances from leaching into the subsurfaces and impacting the ground water quality.

(b) Single-walled Above-Ground Storage Tanks must be placed within a containment berm constructed to retain two hundred (200) percent of the volume of the Regulated Substance contained in any Above Ground Storage Tanks and secondary containment systems for Underground Storage Tanks, and pipelines the tanks. The Director may authorize less than two hundred (200) percent containment for single-walled tanks so long as engineering controls are in place to protect the ground water to the Director's satisfaction.

(c) Double-walled Above-Ground Storage Tanks can be used without additional secondary containment provided that interstitial monitoring and/or other leak prevention technologies are provided.

(d) Underground Storage Tanks and associated piping must be of double-walled construction and incorporate leak detection and spill prevention technologies.

(e) Underground pipelines which carry Regulated Substances must be of double-walled construction and have leak prevention technologies.

(f) Fifty-Five (55) Gallon Drums containing Regulated Substances shall be stored in a covered area and placed in a containment berm having the capacity to contain one hundred (100) percent of the volume of the drums. The Director may authorize less than one hundred (100) percent containment for Fifty-Five (55) Gallon Drums so long as engineering controls are in place to protect the ground water to the Director's satisfaction.

The engineering plans shall show the location of all storage tanks, ~~and pipelines, and Fifty-Five (55) Gallon Drums~~ used for Regulated Substances, and how the storage tanks, ~~and pipelines, and Fifty-Five (55) Gallon Drums~~ will be developed to contain Spills and prevent ground water contamination. These materials shall be contained in ~~the an~~ Environmental Audit to be provided pursuant to Section 1115.08(~~D~~E) hereof or in a Request to Use Additional Regulated Substances pursuant to Section 1115.08(G) hereof.

All storage tanks, ~~and pipelines, and Fifty-Five (55) Gallon Drums located within the Wellfield Protection Area existing prior to the effective date of this chapter,~~ which contain or have contained a Regulated Substance, ~~which do not have secondary containment and monitoring installed shall~~ must be modified or replaced so to in compliance comply with this section, or removed, within one (1) year of the effective date of this chapter or the Director approving changes to or creating a Wellfield Protection Area boundary. All storage tanks and pipelines existing prior to the effective date of this chapter ~~which have previously been approved by the Director and which comply with the standards set forth in this section shall be deemed to be approved by the Director, unless the tanks or pipelines have been modified since the original approval by the Director.~~

#### **1115.10 - Mining of Industrial Minerals in a Restricted Area.**

(A) No person shall use a Facility to mine industrial minerals in a Wellfield Protection Area without first obtaining from the Director a permit to mine.

(B) No Mineral Processing Waste shall be disposed of in a mine pit, except the Director may allow the disposal of Mineral Processing Waste in one of the mined pits provided the area of the mined pit to be used does not exceed ten (10) percent of the total land area of the site and the plans for such on-site disposal are approved in writing by the Director prior to use of the pit for disposal. Preferably all Mineral Processing Waste will be disposed of off site. No person shall allow any other Waste material from the site or from off site to be disposed of in a mine pit or at any other location on site.

(C) Mining Permit: Any person proposing to obtain a permit to mine or amend an existing permit to mine industrial minerals shall submit to the Director in triplicate an application for permit to mine industrial minerals on forms prescribed for the purpose and submit necessary plans, specifications and information relating to the Facility for the Director's approval. The Director shall act upon an application for a permit to mine or amendment of an existing permit to mine within sixty (60) days of receipt of such application. If the Director does not act on ~~deny~~ the permit application within this sixty (60) day period, it shall be deemed to be denied. A denial of a permit or amendment of an existing permit application shall be immediately appealable to the Board.

Such detail plans, specifications and information shall be drawn up in a manner acceptable to the Director or his authorized representative in detail sufficient to allow clear understanding and intelligent review thereof, and to provide assurance that the site or Facility is designed and will be operated in accordance with these regulations. The method of operation of the Facility shall be described by the detailed plans and specification, and a report with information in such degree of detail and clarity as to be readily understandable by operating personnel at the Facility.

~~(A)~~(1) The information contained in subparagraphs ~~(1a)~~ to ~~(1j)~~ below shall be submitted with the permit application:

~~(1)~~(a) Copies of the approved state mining permit application, all supporting documents submitted to the state and pertinent correspondence with the state during the process of permit approval. Copies of any application for variance, modification, amendment, notices of violation, annual and final maps, and any information submitted to the state at any time during and after the mining permit is issued by the city must also be submitted to the city immediately.

~~(2)~~(b) Such identification information as:

~~(a)~~(i) The nature of the mining operation;

~~(b)~~(ii) The precise geographical location and boundaries of the mining operation which shall be indicated on a seven and one-half (7-1/2) minute USGS topographical map and by a legal description;

~~(c)~~(iii) The name and address and telephone number of the mining operator;

~~(d)~~(iv) The name and address of the Owner(s) of the land to be used for mining;

~~(e)~~(v) The name and address of the person who prepared the plans.

~~(3)~~(c) Such site information as:

~~(a)~~(i) All land owned, leased, or proposed to be leased or purchased for the mining operation;

~~(b)~~(ii) All existing land uses on or within one thousand (1000) feet of the mining operation;

- ~~(e)~~(iii) All public roads, access roads, communities, and habitable buildings on or within one thousand (1000) feet of the mining operation;
- ~~(d)~~(iv) The location of all existing or proposed maintenance, weighing, storage, processing or other facilities or buildings;
- ~~(e)~~(v) The location of existing or proposed utilities;
- ~~(f)~~(vi) The location of any water well within two thousand (2000) feet of that portion of the site where Above-Ground or Underground Regulated Substances Storage Tanks are to be installed;
- ~~(g)~~(vii) The limits of the regulatory flood plain, if applicable, and the facilities proposed for flood protection;
- ~~(h)~~(viii) All fencing, gates, and natural or other screening on the site;
- ~~(i)~~(ix) Existing topography, topography of the area within one thousand (1000) feet of the site, maximum depths of excavations, and final topography, with clear indications showing all portions of the site where processed and residual materials are to be deposited;
- ~~(j)~~(x) Plans for the disposal of fines in a Wellfield Protection Area, including an annual disposal plan; and
- ~~(k)~~(xi) Longitudinal and transverse hydrostratigraphic cross sections of the proposed mining pits showing elevations of uppermost aquifer. In the event a clay layer is found to be present below the depth to which the industrial minerals are mined, show how ground water recharge and flow will be protected.
- ~~(4)~~(d) Such hydrogeologic and surface drainage information as:
- ~~(a)~~(i) The direction and flow and points of concentration of all surface waters on the site; and
- ~~(b)~~(ii) A complete log (description) of each boring made during the exploratory program (with appropriate description and explanation in an accompanying report) showing:
- ~~(i)~~(a) The location, depth, surface elevation and water level measurements of all borings; and
- ~~(ii)~~(b) Textural Classification (Unified Soil Classification System - USCS); and
- ~~(iii)~~(c) Grain size distribution curves for representative samples of each group of borings of similar soil composition; and
- ~~(iv)~~(d) Atterberg limits (ASTM method D-4318-10 or its successor), moisture content, and coefficient of permeability, based on field and/or laboratory determinations; and
- ~~(e)~~(iii) Depth, lithology (physical character), and hydrologic characteristics of the bedrock formations encountered during the boring operations and/or which outcrop on or adjacent to the site (may be presented in an accompanying report); and
- ~~(d)~~(iv) The following information relating to the ground water (may be shown in accompanying report):
- ~~(i)~~(a) The depth to maximum elevation of ground water; and

(ii)(b) Direction of the flow of ground water; and

(iii)(c) Analysis by an EPA certified laboratory of such a number of samples from such a number of wells as the Director or his authorized representative deems necessary to determine existing ground water quality and monitor future ground water quality in the area:

Field Testing Parameters

(a)(1) Temperature (measured at the time sample is collected); and

(b)(2) Conductivity; and

(c)(3) pH; and Laboratory Testing Parameters

(d)(4) Total Alkalinity; and

(e)(5) Total Acidity; and

(f)(6) Total Dissolved Solids (TDS); and

(g)(7) Iron (Fe); and

(h)(8) Volatile Organic Compounds (VOCs) (USEPA Method 524.2 or as specified by the Director); and

(i)(9) Total Organic Carbon (TOC); and

(j)(10) Total organic halogens (TOX)

All monitoring wells installed pursuant to this regulation, shall conform to Chapter 3745-9 of the ~~regulations of the Ohio Administrative Code or its successors~~ EPA. The city shall have access to the ground water monitoring wells for inspection, sampling and other monitoring purposes. The location of all monitoring wells shall be shown on the engineering plans submitted with the permit application.

(5)(e) Engineering plans showing the estimated timing and sequence of mining operation, longitudinal and cross sections of proposed mining pits and other parts of the entire land area which is proposed to be used for mining including elevation of uppermost aquifer and hydrostratigraphy. The plans shall also show the location of all above-ground and underground storage tanks, pipelines, and Fifty-Five (55) Gallon Drums, and comply with Section 1115.09 hereof.

(6)(f) A geotechnical laboratory testing program defining the physical parameters of the cohesive and non-cohesive soils excavated during the mining operation and drilling work. This shall include: soil moisture (ASTM method D-2216-~~80~~10 or its successor), Atterberg limits (ASTM method D-4138-10 or its successor), and sieve analysis (ASTM method D-422-63 or its successor) on bore holes drilled in the permit area to determine the amount of Waste likely to be generated during mineral processing and washing operations. ~~No Mineral Processing Waste shall be disposed of in the mine pit, except the Director may allow the disposal of mineral processing waste in one of the mined pits provided the area of the mined pit to be used does not exceed ten (10) percent of the total land area of the site and the plans for such on site disposal are approved in writing by the Director prior to use of the pit for disposal. Preferably all Mineral Processing Waste will be disposed of off site. No person shall allow any other waste material from the site or from off site to be disposed of in a mine pit or at any other location on site.~~

(7)(g) Such operation information as:

~~(a)~~(i) The mode and sequence of mining operation, including equipment to be used, showing precisely how the minerals will be mined and how the pit remaining after the mining operation is completed will be maintained to minimize silting and consequent adverse impact on the ground water recharge capacity of the area.

~~(b)~~(ii) Such equipment information as:

~~(i)~~(a) Types of equipment to be used to operate and maintain the Facility and to maintain the rechargeability of the mined pit; and

~~(ii)~~(b) Hours of operation; and

~~(8)~~(h) Such closure information as:

~~(a)~~(i) How the portion of the Facility where minerals have been mined will be maintained in order to minimize any further deposits of silty or clayey fines.

~~(b)~~(ii) How the site will be closed. This information shall include descriptions of:

~~(i)~~(a) Means by which access to the site will be limited; and

~~(ii)~~(b) Provisions for corrective measures in case of settling of silty and clayey fines in the mine pits in excess of what is allowed pursuant to ~~(A1)~~(6f) of this section.

~~(iii)~~(c) Intended use of the site after closure, if known.

~~(9)~~(i) A notarized statement that, to the best of the knowledge of the person who prepared the plans, the information on the detailed plans and specifications are true and accurate.

~~(10)~~(j) ~~(a)~~ Applications for mining permit shall be signed

~~(i)~~(a) In the case of corporations, by the corporate officer having direct responsibility for the Facility; or

~~(ii)~~(b) In the case of organizations other than corporations by an equivalent responsible individual; or

~~(iii)~~(c) In all other cases, by the operator.

~~(b)~~(j) The signatures shall constitute an agreement by the entity that it is responsible for compliance with this section and this chapter.

~~(B)~~(2) If detailed plans, specifications, and information submitted to the Director or his authorized representative do not conform to the requirements for maintaining ground water recharge and quality, the Director or his authorized representative may, within sixty (60) days of receipt thereof, notify the person submitting said plans of the nature of the deficiency, and of the Director's refusal to consider the plans until the deficiency is rectified. If the Director is satisfied that, notwithstanding their deficiency, the detailed plans, specifications, and information are sufficient to determine whether the mining operation and facilities would adversely impact the Wellfield, he shall consider and act upon such detailed plans, specifications, and information notwithstanding their deficiency.

~~(C)~~(3) If the Director or his authorized representatives determines that information in addition to that required by paragraph (A1) of this section is necessary, he may require that the person submitting the plans supply such information as a precondition to further consideration of the detailed plans, specifications, and information.

~~(D)~~(4) The Director shall not approve any detailed plans, specifications, and information including information regarding the handling of mining fines, unless he determines that the mining operation will not adversely impact the ground water recharge capacity of the aquifer and the quality of the ground water.

~~(E)~~(5) Information submitted pursuant to (A1) ~~(3d)~~ (jii) and (1)(d)(iii) of this section shall be confidential, with this information only being available as needed to employees and agents of the City of Columbus.

~~(F)~~(6) All applications shall be submitted at least sixty (60) days before the commencement of mining operations; provided, however, if a User is conducting a mining operation which has been approved by the Director, it shall not be required to submit an application. ~~An application fee of five thousand dollars (\$5,000.00) shall be submitted with each application made under this section. In addition, on or before January 31st of each calendar year, the mining operator shall pay an annual inspection fee of eight thousand dollars (\$8,000.00) per annum. Users who have paid all application and inspection fees for a Facility pursuant to this section shall not be required to pay any additional fees established pursuant to Section 1115.16(C) hereof.~~

#### **1115.11 - Reporting Requirements.**

(A) Reports Generally.

(1) Applicability. Any ~~person,~~ Owner, User, Facility, or activity located within a Wellfield Protection Area (WPI or WPPI) shall be in compliance with all provisions of paragraph (A)(2) of this section within ~~one hundred and eighty (180) days of the effective date of this section~~ except:

(a) Owners and ~~occupants~~ Users in of single-family or duplex residences are expressly excluded from the reporting requirements of paragraph (A)(2) of this section if such use and occupants are otherwise in compliance with the provisions of this chapter;

(b) As provided under paragraph ~~(E)~~ of Section 1115.08

(2) Reports. Any Owner or ~~occupant~~ User of any land or Facility within an ~~existing~~ Wellfield Protection Area shall have on file with the Director applicable reports ~~with the Director within one hundred and eighty (180) days of the effective date of this section,~~ except as provided in (A)(1) of this section.

(a) The reports filed by the Owner or ~~occupant~~ User shall contain information deemed necessary by the Director for determination of compliance with this chapter, other city ordinances and Ohio and federal laws and regulations. Such information shall be provided by completion of an Environmental Audit pursuant to Section 1115.08(E) hereof and, when required, ~~an environmental assessment of estimated effect~~ a Request to Use Additional Regulated Substances pursuant to Section 1115.08(G) hereof. ~~The scope of information for these reports shall be designed and supplied by the Director.~~

(b) Information contained in any submittal and designated ~~by person or activity~~ as confidential shall only be considered confidential to the extent allowable under the Ohio Public Records Law and other applicable federal and state laws.

(c) A person who owns, operates or occupies more than one Facility in a Wellfield Protection Area must make separate information submittals for each Facility.

(d) Operators of industrial mineral mining facilities who are Users of Regulated Substances shall comply with these reporting requirements, as well as the provisions of Section 1115.10

(3) Falsifying information. No person shall make any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or falsify, tamper with, or render inaccurate any monitoring device or method required under this section.

(4) Retention of records. Any reports or records compiled or submitted pursuant to this section shall be maintained by the Owner, User, or Operators of industrial mineral mining facilities for a minimum of six (6) years or so long as enforcement or judicial proceedings are being pursued, whichever is longer.

(B) Reporting of Spills, Leaks or Discharges.

(1) Any person with direct knowledge of a spill, leak or discharge of a Regulated Substance within a Wellfield Protection Area shall, if such spill, leak or discharge escapes containment, contacts a non-impervious ground surface and is not immediately and completely remediated, give notice to the administrator of the Division of Water by telephone. The notification shall be made within three (3) hours of the incident and shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.

(2) Any entity or person who spills, leaks or discharges a Regulated Substance(s) shall be liable for the reasonable expense, loss or damage incurred by the City in response to such an incident, in addition to the amount of any fines imposed on account thereof under local, state and federal laws; said person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but not later than one hundred eighty (180) days after the incident and submit a complete report for the Director's approval incorporating a detailed history of the spill, corrective actions taken and a plan for prevention of such incidents.

(3) Any User person or activity located in a Wellfield Protection Area shall provide spill prevention control and other pollution abatement methods or facilities sufficient to adequately minimize or eliminate the accidental discharge of spills of any Regulated Substances. Such control and abatement methods and facilities shall be provided and maintained at said person's cost and expense. A User must submit a spill prevention, control, and countermeasure (SPCC) plan to the Director for approval prior to the construction of any Facility. Detailed plans showing facilities and The SPCC plan must describe in detail the Facility and all operating procedures sufficient to provide this protection shall be submitted to the Director as a component of the environmental assessment of estimated effect report for review and approval by the Director prior to the construction of facilities prevent and control a release of any Regulated Substances utilized at the Facility. Review and approval by the Director of said plans ~~and operating procedures~~ shall not relieve the User from the responsibility to modify the Facility as necessary to meet the requirements of this chapter.

(4) Signs shall be permanently posted in conspicuous places on the premises in locations where Regulated Substances are, or may be used, advising employees whom to call in the event of a spill or accidental

discharge. All persons who may cause or discover such an incident shall be trained in emergency procedures by the Owner or Operator.

(5) The city shall post signs in conspicuous places advising transporters of Regulated Substances whom to call in the event of a spill or accidental discharge.

**1115.12 - Public Water Supply Protection.**

(A) If any activity or Regulated Substance poses a risk to or may have a deleterious effect directly or indirectly upon the public water supply or wellfields or when deemed by the Director to be in the best interest of managing the water utility, the Director is authorized to do any or all of the following:

- (1) Require pollution or contaminant control and abatement;
- (2) Require payment to cover the cost of monitoring, controlling or otherwise removing any such pollutant, contaminant or obstruction;
- (3) Require the development of compliance schedules to implement corrective actions;
- (4) Require the installation of monitoring facilities, and the submission of reports sufficient to ascertain any threat or risk due to any Regulated Substance, pollutants or contaminants or other activities and to determine compliance status relative to this chapter;
- (5) Carry out inspection, surveillance and monitoring on public or private property sufficient to determine compliance with this chapter;
- (6) Pursue any actions that are legally available such as, administrative remedies or enforcement actions including, but not limited to injunctive relief, and penalties as specified in Section 1115.99
- (7) Require a person to pay the costs of enforcement where a person has been found to be in violation of this chapter. These costs may include, but are not limited to the recovery of all reasonable administrative and legal expenses related to the enforcement activity;
- (8) Order cessation of any use or activity which may create hazards or may have deleterious effects on the water supply or facilities; or
- (9) Issue orders establishing land use restrictions or rates of discharge or otherwise controlling the use of any Regulated Substance or pollutant to ensure compliance with this chapter;
- (10) Order remedial actions.

(B) When considering the exercise of any of the above powers or actions, the Director shall ensure that the City's public water supply is reasonably and adequately protected from contamination or obstruction for the present and the future. The Director may take into consideration any evidence presented by the entity regarding cost-effectiveness and the economic impact imposed by the requirements or actions.

(C) No City officer, agency, employee or Board shall approve, grant or issue any building permit, certificate of use and occupancy (including changes in ownership), plat, zoning, or conditional use, for any land use within a Wellfield Protection Area until prior written approval of the Director has been obtained. The issuance of any permit, license or other instrument in violation of this paragraph shall not relieve any person from compliance with this chapter.



**1115.13 - Public Notice and Appeals.**

(A) Public notice shall be provided in a newspaper of general circulation in Columbus, Ohio, within five (5) working days of any final action by the Director pursuant to Sections 1115.05, 1115.06 and 1115.14 which provide for the modification of maps delineating Wellfield Protection Areas, addition or deletions of Regulated Substances, and granting of waivers, respectively.

(B) Unless a different time limit is provided by this chapter, the Director shall take the appropriate action within sixty (60) days after submission of the request to him. If the Director does not take the action within the sixty (60) day period, the request shall be deemed denied. The Director shall maintain a journal or journals into which shall be entered all actions or decisions that the Director desires to make final and shall notify by certified or registered mail any party adversely affected by his action or decision. The Director shall report to City Council on a monthly basis all actions or decisions journalized by the Director in the preceding month, along with a listing of all pending determinations. All final decisions of the Director shall be appealable to the Board. If any proceedings are conducted as part of the Director's determination, a transcript of the proceedings shall be prepared and maintained.

(C) The Board is hereby established, and shall consist of five (5) designees. The five (5) designees shall be appointed by the mayor, with the advice and consent of the city council. All designees shall serve for a term of five (5) years. Each term shall be staggered over the five (5) year period, with one (1) Board member being replaced each year, to maintain the continuity of the Board. In creating the initial Board one (1) member will serve a one (1) year term, one (1) member will serve a two (2) year term, one (1) member will serve a three (3) year term, one (1) member will serve a four (4) year term and one (1) member will serve a five (5) year term. When each initial Board member's term has expired, the person appointed to fill the vacancy then will serve a five (5) year term. The Board shall have the authority to take appeals, investigate matters related to said appeals, deny, uphold or otherwise modify or waive actions or requirements on a case-by-case basis. The Board shall develop rules and regulations of operation consistent with its authority, and subject to approval of City Council.

(D) Any person adversely affected may appeal an final action of the Director made pursuant to this chapter by filing with the Board a notice of appeal within fourteen (14) days of said action and a statement of appeal within thirty (30) days of the date the action appealed from was journalized. A notice of appeal shall include as a minimum: name; address; telephone number; date; and a statement of intent to appeal. A statement of appeal shall include all information contained in the notice of appeal, a description of the nature of the appeal, and any pertinent documentation. All filings required herein shall be made at the office of the Director.

(E) The Board shall conduct an adjudication hearing within forty-five (45) days of the receipt of the statement of appeal. The Board shall schedule an adjudication hearing and give public notice of this hearing and written notice to the parties involved at least fourteen (14) days in advance of the adjudication hearing. The Board shall issue a written decision on the appeal within five (5) days of the adjudication hearing. All interested parties, who submit requests in writing, will receive written notification of the decision of the Board.

(F) Only those parties adversely affected by the Director's action shall be parties to the adjudication hearing before the Board. The Board may require the parties to prepare briefs covering such matters as the Board may specify.

(G) A transcript of the proceedings shall be prepared and maintained by the Director, with the cost being charged to the non-prevailing party.

(H) The action of the Director shall be binding pending the decision of the Board.

(I) The decisions of the Board shall be immediately appealable to the Court of Common Pleas, pursuant to Chapter 2506 of the O.R.C.

(J) For purposes of appeal pursuant to O.R.C. Chapter 2506, the City of Columbus shall be considered an aggrieved person with the right to appeal the determination of the Board whenever the Board modifies or rescinds an action taken by the Director pursuant to this chapter.

**1115.14 - Waivers.**

Where it appears that the implementation of the provisions of this chapter create a hardship upon any affected party, the Director may waive the application of this chapter upon such terms and conditions as the Director deems necessary and appropriate to implement the purposes of this chapter, as long as such waiver does not substantially increase any risk or hazard to the public health, water supply, wells or wellfields. Any waiver of the provisions of this chapter granted by the Director shall be subject to public notice and appeal to the Board as provided in Section 1115.13.

Any waiver of the provisions of this chapter shall only be valid to the Owner, the Owner's lessee, or User at the time the waiver is issued; and is not transferrable.

**1115.15 - Inspections.**

Subject to applicable provisions of law, the Director or his authorized designees bearing proper identification shall be permitted to enter private property at any reasonable time for such purposes as, but not limited to, inspection, observation, measurement, sampling and records examination pertaining to the requirements of these regulations to ensure that the activities are in accordance with the provisions of this chapter. If the Owner or tenant does not consent to the entry of the Director or his authorized designees for the above stated purposes, the Director may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter the property, and the Owner and the tenant shall bear the costs of the court action. All Users of Regulated Substances within the Wellfield Protection Area shall be inspected at minimum on a semiannual basis, and all mining operations permitted under Section 1115.10 of this chapter shall be inspected at minimum on a monthly basis.

**1115.16 - Fees, Charges and Fines.**

(A) Any fees, charges or fines payable under the provisions of this chapter shall be paid into the City of Columbus water service fund.

(B) Any fees and charges payable hereunder are due and payable upon the receipt of notice of charges.

(C) The Director ~~shall~~ may establish reasonable fees for the submission of an Environmental Audit, a Request to Use Additional Regulated Substances environmental assessment of estimated effect, and Regulated Substance User permit renewal applications, and all applications for permits to mine or amendments to existing permits to-mine industrial minerals to cover the administrative cost of reviewing these applications and conducting inspections of the facilities

**1115.17 - Vandalism.**

No person shall maliciously, willfully, or with gross negligence break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property or equipment which is a part of or used in conjunction with the City's water facilities.

**1115.18 - Notice of Violation.**

Any person found in violation of any provision of this chapter or any order, requirement, rule or regulation issued under the authority of this chapter will be served with a written notice stating the nature

of the violation, the potential penalties pursuant to this chapter, and providing reasonable time for compliance. If the Director has previously promulgated a schedule of compliance or issued an order addressing the same or a similar violation and the time for compliance has passed, the Director may dispense with establishing another time period for compliance.

The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the Owner of the property involved at the tax mailing address of the Owner as shown on the county tax record.

**1115.19 - Severability.**

A finding by any court ~~or other~~ of competent jurisdiction that any part or provision of ~~this chapter these regulations~~ is invalid shall not affect the validity of any other part or provision of these regulations which can be given effect without the invalid parts or provisions.

**1115.99 - Penalties.**

(A) A violation of the provisions of Section 1115.17 shall constitute a misdemeanor of the second degree, punishable pursuant to Columbus City Code Chapter 2301, by a term of imprisonment up to ninety (90) days and by a fine in an amount not to exceed seven hundred fifty dollars (\$750.00).

(B) Any person who negligently violates or continues to negligently violate any provision of this chapter, other than Section 1115.17, beyond the time limit for compliance set forth by the Director, notice of violation by the Director, or a compliance schedule established by the Director, shall be subject to the following:

(1) The first violation shall be punishable by a fine in an amount not to exceed five hundred dollars (\$500.00).

(2) A subsequent violation of the same provision shall constitute a misdemeanor of the first degree, punishable pursuant to Columbus City Code Chapter 2301, by a term of imprisonment up to six (6) months and a fine in an amount not to exceed one thousand dollars (\$1,000.00).

(3) A continuing violation of any provision of this chapter shall be punishable by an additional fine of five hundred dollars (\$500.00) per day.