

AN ACT

To amend sections 109.71, 109.751, 109.77, 109.801, 109.802, 145.01, 145.33, 149.01, 505.82, 918.12, 971.01, 1501.02, 1501.10, 1502.01, 1502.03, 1502.04, 1502.05, 1502.99, 1503.05, 1503.29, 1503.43, 1504.02, 1505.10, 1505.99, 1506.02, 1506.11, 1507.05, 1509.01, 1509.06, 1509.07, 1509.071, 1509.072, 1509.13, 1509.14, 1509.22, 1509.222, 1509.31, 1511.02, 1511.022, 1513.02, 1513.18, 1513.181, 1513.20, 1513.30, 1513.37, 1515.03, 1515.08, 1515.24, 1517.10, 1517.14, 1517.99, 1518.20 to 1518.27, 1518.99, 1520.01 to 1520.03, 1521.03, 1521.05, 1531.01, 1531.06, 1531.13, 1531.20, 1531.33, 1531.99, 1533.01, 1533.06, 1533.08, 1533.10, 1533.12, 1533.171, 1533.24, 1533.67, 1533.68, 1533.70, 1533.71, 1533.74, 1533.82, 1533.99, 1541.03, 1541.10, 1547.01, 1547.03, 1547.04, 1547.08, 1547.09, 1547.111, 1547.12, 1547.13, 1547.131, 1547.14, 1547.15, 1547.22, 1547.25, 1547.251, 1547.26, 1547.30, 1547.302, 1547.31, 1547.33, 1547.39, 1547.40, 1547.52, 1547.521, 1547.531, 1547.54, 1547.542, 1547.543, 1547.57, 1547.69, 1548.01, 1548.05, 1548.06, 1553.01, 1553.02, 1553.05, 1553.08, 2935.01, 2935.03, 3937.42, 4905.03, 5749.02, and 6111.42; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1518.20 (1533.86), 1518.21 (1533.87), 1518.22 (1533.88), 1518.23 (1533.881), 1518.24 (1533.882), 1518.25 (1533.89), 1518.26 (1533.891), and 1518.27 (1533.90); to enact new section 1553.07 and sections 1501.013, 1531.081, 1531.202, and 1531.34; and to repeal sections 1515.06, 1515.071, and

1553.07 of the Revised Code to revise the statutes governing the Department of Natural Resources and to maintain the provisions of this act on and after January 1, 2000, by amending the version of section 1547.31 of the Revised Code that takes effect on that date.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 109.71, 109.751, 109.77, 109.801, 109.802, 145.01, 145.33, 149.01, 505.82, 918.12, 971.01, 1501.02, 1501.10, 1502.01, 1502.03, 1502.04, 1502.05, 1502.99, 1503.05, 1503.29, 1503.43, 1504.02, 1505.10, 1505.99, 1506.02, 1506.11, 1507.05, 1509.01, 1509.06, 1509.07, 1509.071, 1509.072, 1509.13, 1509.14, 1509.22, 1509.222, 1509.31, 1511.02, 1511.022, 1513.02, 1513.18, 1513.181, 1513.20, 1513.30, 1513.37, 1515.03, 1515.08, 1515.24, 1517.10, 1517.14, 1517.99, 1518.20, 1518.21, 1518.22, 1518.23, 1518.24, 1518.25, 1518.26, 1518.27, 1518.99, 1520.01, 1520.02, 1520.03, 1521.03, 1521.05, 1531.01, 1531.06, 1531.13, 1531.20, 1531.33, 1531.99, 1533.01, 1533.06, 1533.08, 1533.10, 1533.12, 1533.171, 1533.24, 1533.67, 1533.68, 1533.70, 1533.71, 1533.74, 1533.82, 1533.99, 1541.03, 1541.10, 1547.01, 1547.03, 1547.04, 1547.08, 1547.09, 1547.111, 1547.12, 1547.13, 1547.131, 1547.14, 1547.15, 1547.22, 1547.25, 1547.251, 1547.26, 1547.30, 1547.302, 1547.31, 1547.33, 1547.39, 1547.40, 1547.52, 1547.521, 1547.531, 1547.54, 1547.542, 1547.543, 1547.57, 1547.69, 1548.01, 1548.05, 1548.06, 1553.01, 1553.02, 1553.05, 1553.08, 2935.01, 2935.03, 3937.42, 4905.03, 5749.02, and 6111.42 be amended, sections 1518.20 (1533.86), 1518.21 (1533.87), 1518.22 (1533.88), 1518.23 (1533.881), 1518.24 (1533.882), 1518.25 (1533.89), 1518.26 (1533.891), and 1518.27 (1533.90) be amended for the purpose of adopting new section numbers as indicated in parentheses, and new section 1553.07 and sections 1501.013, 1531.081, 1531.202, and 1531.34 of the Revised Code be enacted to read as follows:

Sec. 109.71. There is hereby created in the office of the attorney general the Ohio peace officer training commission. The commission shall consist of nine members appointed by the governor with the advice and consent of the senate and selected as follows: one member representing the public; two members who are incumbent sheriffs; two members who are incumbent chiefs of police; one member from the bureau of criminal identification and investigation; one member from the state highway patrol; one member who

is the special agent in charge of a field office of the federal bureau of investigation in this state; and one member from the department of education, trade and industrial education services, law enforcement training.

As used in sections 109.71 to 109.77 of the Revised Code:

(A) "Peace officer" means:

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, or township constable, who is commissioned and employed as a peace officer by a political subdivision of this state or by a metropolitan housing authority, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state, ordinances of a municipal corporation, resolutions of a township, or regulations of a board of county commissioners or board of township trustees, or any such laws, ordinances, resolutions, or regulations;

(2) A police officer who is employed by a railroad company and appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(3) Employees of the department of taxation engaged in the enforcement of Chapter 5743. of the Revised Code and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code;

(4) An undercover drug agent;

(5) Liquor control investigators of the department of public safety engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code;

(6) An employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a park officer designated pursuant to section 1541.10, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code;

(7) An employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code;

(8) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(9) A police officer who is employed by a hospital that employs and

maintains its own proprietary police department or security department, and who is appointed and commissioned by the governor pursuant to sections 4973.17 to 4973.22 of the Revised Code;

(10) Ohio veterans' home police officers designated under section 5907.02 of the Revised Code;

(11) A police officer who is employed by a qualified nonprofit corporation police department pursuant to section 1702.80 of the Revised Code;

(12) A state university law enforcement officer appointed under section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training council attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program;

(13) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;

(14) A member of a campus police department appointed under section 1713.50 of the Revised Code;

(15) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code;

(16) Food stamp trafficking agents of the department of public safety designated under section 5502.14 of the Revised Code;

(17) Investigators appointed by the auditor of state pursuant to section 117.091 of the Revised Code and engaged in the enforcement of Chapter 117. of the Revised Code;

(18) A special police officer designated by the superintendent of the state highway patrol pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program.

(B) "Undercover drug agent" has the same meaning as in division (B)(2) of section 109.79 of the Revised Code.

(C) "Crisis intervention training" means training in the use of interpersonal and communication skills to most effectively and sensitively

interview victims of rape.

(D) "Missing children" has the same meaning as in section 2901.30 of the Revised Code.

Sec. 109.751. (A) The executive director of the Ohio peace officer training commission shall neither approve nor issue a certificate of approval to a peace officer training school pursuant to section 109.75 of the Revised Code unless the school agrees to permit, in accordance with rules adopted by the attorney general pursuant to division (C) of this section, undercover drug agents to attend its basic training programs. The executive director shall revoke approval, and the certificate of approval of, a peace officer training school that does not permit, in accordance with rules adopted by the attorney general pursuant to division (C) of this section, undercover drug agents to attend its basic training programs.

This division does not apply to peace officer training schools for employees of conservancy districts who are designated pursuant to section 6101.75 of the Revised Code or for a natural resources law enforcement staff officer, park officers, forest officers, preserve officers, wildlife officers, or state watercraft officers of the department of natural resources.

(B)(1) A peace officer training school is not required to permit an undercover drug agent, a bailiff or deputy bailiff of a court of record of this state, or a criminal investigator employed by the state public defender to attend its basic training programs if either of the following applies:

(a) In the case of the Ohio peace officer training academy, the employer county, township, municipal corporation, court, or state public defender or the particular undercover drug agent, bailiff, deputy bailiff, or criminal investigator has not paid the tuition costs of training in accordance with section 109.79 of the Revised Code;

(b) In the case of other peace officer training schools, the employer county, township, municipal corporation, court, or state public defender fails to pay the entire cost of the training and certification.

(2) A training school shall not permit a bailiff or deputy bailiff of a court of record of this state or a criminal investigator employed by the state public defender to attend its basic training programs unless the employing court of the bailiff or deputy bailiff or the state public defender, whichever is applicable, has authorized the bailiff, deputy bailiff, or investigator to attend the school.

(C) The attorney general shall adopt, in accordance with Chapter 119. or pursuant to section 109.74 of the Revised Code, rules governing the attendance of undercover drug agents at approved peace officer training schools, other than the Ohio peace officer training academy, and the

certification of the agents upon their satisfactory completion of basic training programs.

Sec. 109.77. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Notwithstanding any general, special, or local law or charter to the contrary, and except as otherwise provided in this section, no person shall receive an original appointment on a permanent basis as any of the following unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program:

(a) A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;

(b) A natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources;

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code;

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(e) A state university law enforcement officer;

(f) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;

(g) A food stamp trafficking agent of the department of public safety designated under section 5502.14 of the Revised Code.

(2) Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as any of the following shall forfeit the appointed position unless the person previously has ~~satisfactorily~~ completed satisfactorily or, within the time prescribed by rules adopted by the attorney general pursuant to section 109.74 of the Revised Code, satisfactorily completes a state, county, municipal, or department of natural resources peace officer basic training program for temporary or probationary officers and is awarded a certificate by the director attesting to the satisfactory completion of the program:

(a) A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;

(b) A natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the

department of natural resources;

(c) An employee of a park district under section 511.232 or 1545.13 of the Revised Code;

(d) An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;

(e) A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;

(f) A food stamp trafficking agent of the department of public safety designated under section 5502.14 of the Revised Code.

(3) For purposes of division (B) of this section, a state, county, municipal, or department of natural resources peace officer basic training program, regardless of whether the program is to be completed by peace officers appointed on a permanent or temporary, probationary, or other nonpermanent basis, shall include at least fifteen hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code and at least six hours of crisis intervention training. The requirement to complete fifteen hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under section 2919.26 or 3113.31 of the Revised Code does not apply to any person serving as a peace officer on March 27, 1979, and the requirement to complete six hours of training in crisis intervention does not apply to any person serving as a peace officer on April 4, 1985. Any person who is serving as a peace officer on April 4, 1985, who terminates that employment after that date, and who ~~is~~ subsequently is hired as a peace officer by the same or another law enforcement agency shall complete the six hours of training in crisis intervention within the time prescribed by rules adopted by the attorney general pursuant to section 109.742 of the Revised Code. No peace officer shall have employment as a peace officer terminated and then be reinstated with intent to circumvent this section.

(4) Division (B) of this section does not apply to any person serving on a permanent basis on March 28, 1985, as a park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources or as an employee of a park district under section 511.232 or 1545.13 of the Revised Code, to any person serving on a permanent basis on March 6, 1986, as an employee of a conservancy district

designated pursuant to section 6101.75 of the Revised Code, to any person serving on a permanent basis on January 10, 1991, as a preserve officer of the department of natural resources, to any person employed on a permanent basis on July 2, 1992, as a special police officer by the department of mental health pursuant to section 5119.14 of the Revised Code or by the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code, or to any person serving on a permanent basis on June 19, 1978, as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who, immediately prior to June 19, 1978, was serving as a special ~~police officer~~ police officer designated under authority of that section.

(5) Division ~~(A)~~(B) of this section does not apply to any person who is appointed as a regional transit authority police officer pursuant to division (Y) of section 306.35 of the Revised Code if, on or before July 1, 1996, the person has ~~satisfactorily~~ completed satisfactorily an approved state, county, municipal, or department of natural resources peace officer basic training program and has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of such an approved program and if, on July 1, 1996, the person is performing peace officer functions for a regional transit authority.

(C) No person, after September 20, 1984, shall receive an original appointment on a permanent basis as a liquor control investigator or food stamp trafficking agent of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code, or as an Ohio veterans' home police officer designated under section 5907.02 of the Revised Code unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved police officer basic training program. Every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as a liquor control investigator of the department of public safety, engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code, or as an Ohio veterans' home police officer designated under section 5907.02 of the Revised Code shall forfeit that position unless the person previously has ~~satisfactorily~~ completed satisfactorily or, within one year from the time of appointment, satisfactorily completes an approved police officer basic training program.

No person ~~shall~~, beginning on October 29, 1995, shall receive an original appointment on a permanent basis as a food stamp trafficking agent of the department of public safety authorized to enforce Chapter 5502. and

sections 2913.46 and 5101.54 of the Revised Code and engaged in the enforcement of laws and rules described in section 5502.14 of the Revised Code unless the person previously has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved police officer basic training program. Every person who is appointed on a temporary or for a probationary term or on other than a permanent basis as a food stamp trafficking agent shall forfeit that position unless the person previously has ~~satisfactorily~~ completed satisfactorily, or within one year from the time of the appointment satisfactorily completes, an approved police officer basic training program.

(D) No bailiff or deputy bailiff of a court of record of this state and no criminal investigator who is employed by the state public defender shall carry a firearm, as defined in section 2923.11 of the Revised Code, while on duty unless the bailiff, deputy bailiff, or criminal investigator has done or received one of the following:

(1) Has been awarded a certificate by the executive director of the Ohio peace officer training commission, which certificate attests to satisfactory completion of an approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and for criminal investigators employed by the state public defender that has been recommended by the Ohio peace officer training ~~council~~ commission;

(2) Has successfully completed a firearms training program approved by the Ohio peace officer training commission prior to employment as a bailiff, deputy bailiff, or criminal investigator;

(3) Prior to June 6, 1986, was authorized to carry a firearm by the court that employed the bailiff; or deputy bailiff; or, in the case of a criminal investigator ~~or~~, by the state public defender and has received training in the use of firearms that the Ohio peace officer training commission determines is equivalent to the training that otherwise is required by ~~this~~ division (D) of this section.

(E)(1) Prior to awarding any certificate prescribed in this section, the executive director of the Ohio peace officer training commission shall request the person to whom the certificate is to be awarded to disclose, and the person shall disclose, any previous criminal conviction of or plea of guilty of that person to a felony.

(2) Prior to the award by the executive director of the commission of any certificate prescribed in this section, the prospective employer of the person to whom the certificate is to be awarded or the commander of the peace officer training school attended by that person shall request the bureau

of criminal identification and investigation to conduct a criminal history records check on the person. Upon receipt of the request, the bureau promptly shall conduct a criminal history records check on the person and, upon completion of the check, promptly shall provide a copy of the criminal history records check to the prospective employer or peace officer training school commander that made the request. Upon receipt of the copy of the criminal history records check from the bureau, the prospective employer or peace officer training school commander that made the request shall submit the copy to the executive director of the Ohio peace officer training commission. The executive director shall not award any certificate prescribed in this section unless the executive director has received a copy of the criminal history records check on the person to whom the certificate is to be awarded.

(3) The executive director of the commission shall not award a certificate prescribed in this section to a person who has been convicted of or has pleaded guilty to a felony or who fails to disclose any previous criminal conviction of or plea of guilty to a felony as required under division (E)(1) of this section.

(4) The executive director of the commission shall revoke the certificate awarded to a person as prescribed in this section, and that person shall forfeit all of the benefits derived from being certified as a peace officer under this section, if the person, prior to the award of the certificate, failed to disclose any previous criminal conviction of or plea of guilty to a felony as required under division (E)(1) of this section.

(F)(1) Regardless of whether the person has been awarded the certificate or has been classified as a peace officer prior to, on, or after the effective date of this amendment, the executive director of the Ohio peace officer training commission shall revoke any certificate that has been awarded to a person as prescribed in this section if the person does either of the following:

(a) Pleads guilty to a felony committed on or after January 1, 1997.

(b) Pleads guilty to a misdemeanor committed on or after January 1, 1997, pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the person agrees to surrender the certificate awarded to the person under this section.

(2) The executive director of the commission shall suspend any certificate that has been awarded to a person as prescribed in this section if the person is convicted, after trial, of a felony committed on or after January 1, 1997. The executive director shall suspend the certificate pursuant to ~~this~~ division (F)(2) of this section pending the outcome of an appeal by the

person from that conviction to the highest court to which the appeal is taken or until the expiration of the period in which an appeal is required to be filed. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the executive director shall reinstate the certificate awarded to the person under this section. If the person files an appeal from that person's conviction of the felony and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the executive director shall revoke the certificate awarded to the person under this section.

(G)(1) If a person is awarded a certificate under this section and the certificate is revoked pursuant to division (E)(4) or (F) of this section, the person shall not be eligible to receive, at any time, a certificate attesting to the person's satisfactory completion of a peace officer basic training program.

(2) The revocation or suspension of a certificate under division (E)(4) or (F) of this section shall be in accordance with Chapter 119. of the Revised Code.

(H)(1) A person who was employed as a peace officer of a county, township, or municipal corporation of the state on January 1, 1966, and who has completed at least sixteen years of full-time active service as such a peace officer may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(2) Any person who held an appointment as a state highway trooper on January 1, 1966, may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements of division (B) of this section.

(I) No person who is appointed as a peace officer of a county, township, or municipal corporation on or after April 9, 1985, shall serve as a peace officer of that county, township, or municipal corporation unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township, or municipal police officer basic training program or receives the training within the time prescribed by rules adopted by the attorney general pursuant to section 109.741 of the Revised Code.

(J) No part of any approved state, county, or municipal basic training program for bailiffs and deputy bailiffs of courts of record and no part of

any approved state, county, or municipal basic training program for criminal investigators employed by the state public defender shall be used as credit toward the completion by a peace officer of any part of the approved state, county, or municipal peace officer basic training program that the peace officer is required by this section to complete satisfactorily.

(K) This section does not apply to any member of the police department of a municipal corporation in an adjoining state serving in this state under a contract pursuant to section 737.04 of the Revised Code.

Sec. 109.801. (A)(1) Each year the following persons shall ~~successfully~~ complete successfully a firearms requalification program approved by the executive director of the Ohio peace officer training commission in accordance with rules adopted by the attorney general pursuant to section 109.743 of the Revised Code: any sheriff, deputy sheriff, marshal, deputy marshal, township constable, chief of police or member of an organized police department of a municipal corporation or township, chief of police or member of a township police district police force, superintendent of the state highway patrol, state highway patrol trooper, or chief of police of a university or college police department or state university law enforcement officer appointed under section 3345.04 of the Revised Code; any parole or probation officer who carries a firearm in the course of official duties; any employee of the department of natural resources who is a natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer who carries a firearm in the course of official duties; or any employee of the department of youth services who is designated pursuant to division (A)(2) of section 5139.53 of the Revised Code as being authorized to carry a firearm while on duty as described in that division.

(2) No person listed in division (A)(1) of this section shall carry a firearm during the course of official duties if the person does not comply with division (A)(1) of this section.

(B) The hours that a sheriff spends attending a firearms requalification program required by division (A) of this section are in addition to the sixteen hours of continuing education that are required by division (E) of section 311.01 of the Revised Code.

(C) As used in this section, "firearm" has the same meaning as in section 2923.11 of the Revised Code.

Sec. 109.802. (A) There is hereby created in the state treasury the law enforcement assistance fund. The fund shall be used to pay reimbursements for law enforcement training as provided in this section and section 109.803 of the Revised Code, the compensation of any employees of the attorney

neral required to administer those sections, and any other administrative costs incurred by the attorney general to administer those sections.

(B) The attorney general shall adopt rules in accordance with Chapter 119. of the Revised Code establishing application procedures, standards, and guidelines, and prescribing an application form, for the reimbursement of sheriffs, constables, chiefs of police of organized municipal and township police departments, chiefs of police of township police district police forces, and chiefs of police of university or college police departments for the costs of peace officer basic training programs, advanced peace officer training programs, basic jailer training programs, and firearms requalification programs successfully completed by them or the peace officers under their supervision, for the reimbursement of the superintendent of the state highway patrol and the director of natural resources for the costs of peace officer basic training programs, advanced peace officer training programs, and basic jailer training programs successfully completed by them or the peace officers under their supervision, and for the reimbursement of the chief of the adult parole authority and the chief probation officer of a county probation department, multicounty probation department, and municipal court department of probation for the costs of basic firearm training programs and firearms requalification programs successfully completed by them or by parole or probation officers under their supervision. The rules shall include, but are not limited to, all of the following:

(1) A requirement that applications for reimbursement be submitted on a fiscal year basis;

(2) The documentation required to substantiate any costs for which the applicant seeks reimbursement;

(3) The procedure for prorating reimbursements if the amount of money appropriated for reimbursement for any fiscal year is not sufficient to pay all of the costs approved for reimbursement for that fiscal year;

(4) Any other requirements necessary for the proper administration of the reimbursement program.

(C) Each sheriff, constable, and chief of police of an organized municipal or township police department, township police district police force, or university or college police department may apply each fiscal year to the peace officer training commission for reimbursement for the costs of peace officer basic training programs, advanced peace officer training programs, basic jailer training programs, and firearms requalification training programs that are successfully completed by the sheriff, constable, or chief or a peace officer under the sheriff's, constable's, or chief's supervision. The superintendent of the state highway patrol and the director

of natural resources may apply each fiscal year to the peace officer training commission for reimbursement for the costs of peace officer basic training programs, advanced peace officer training programs, and basic jailer training programs successfully completed by the superintendent or director or the peace officers under the superintendent's or director's supervision. The chief of the adult parole authority and each chief probation officer of a county probation department, multicounty probation department, or municipal court department of probation may apply each fiscal year to the peace officer training commission for reimbursement for the costs of basic firearm training programs and firearms requalification programs successfully completed by that ~~such~~ chief or by parole or probation officers under the chief's supervision. Each application shall be made in accordance with, on an application form prescribed in, and be supported by the documentation required by, the rules adopted by the attorney general pursuant to division (B) of this section.

(D) As used in this section and section 109.803 of the Revised Code:

(1) "Peace officer" includes a sheriff, deputy sheriff, marshal, deputy marshal, chief of police and member of a municipal or township police department, chief of police ~~or~~ and member of a township police district police force, chief of police of a university or college police department, state university law enforcement officer appointed under section 3345.04 of the Revised Code, superintendent of the state highway patrol, state highway patrol trooper, and employee of the department of natural resources who is a natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer.

(2) "Chief of police of an organized municipal police department" includes the chief of police of a village police department.

(3) "Chief of police of a village police department" means the village marshal.

(4) "Chief of police of a university or college police department" means the person who has direct supervisory authority over the state university law enforcement officers who are appointed for the university or college pursuant to section 3345.04 of the Revised Code by the board of trustees of the university or college.

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library,

union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in ~~this~~ division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in ~~this~~ division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

In all cases of doubt, the public employees retirement board shall determine whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C)(2) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical college, state university, or board, bureau, commission, council, committee,

authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 3307.01 or 3309.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee claiming the service was employed in any capacity covered by that other system after that other system was established, credit for the service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

If an employee who has been granted prior service credit by the public employees retirement system for service rendered prior to January 1, 1935, as an employee of a board of education establishes, before retirement, one year or more of contributing service in the state teachers retirement system or school employees retirement system, then the prior service ceases to be the liability of this system.

If the board determines that a position of any member in any calendar year prior to January 1, 1935, was a part-time position, the board shall determine what fractional part of a year's credit shall be allowed by the following formula:

(1) When the member has been either elected or appointed to an office the term of which was two or more years and for which an annual salary is established, the fractional part of the year's credit shall be computed as follows:

First, when the member's annual salary is one thousand dollars or less, the service credit for each such calendar year shall be forty per cent of a year.

Second, for each full one hundred dollars of annual salary above one thousand dollars, the member's service credit for each such calendar year shall be increased by two and one-half per cent.

(2) When the member is paid on a per diem basis, the service credit for any single year of the service shall be determined by using the number of days of service for which the compensation was received in any such year as a numerator and using two hundred fifty days as a denominator.

(3) When the member is paid on an hourly basis, the service credit for any single year of the service shall be determined by using the number of hours of service for which the compensation was received in any such year as a numerator and using two thousand hours as a denominator.

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retiree, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such ~~employee members~~ employee members, a corresponding payment shall be

paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system ~~bears~~ bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer ~~as defined in division (D) of this section.~~

(I) "Regular or current interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time, except as follows:

(1) Subsequent to December 31, 1958, the retirement board shall discontinue the annual crediting of current interest to the individual accounts of contributors. The noncrediting of current interest shall not affect the rate of interest at retirement guaranteed under ~~this division~~ (I) of this section.

(2) The rate of interest credited on a contributor's contributions at retirement shall be four per cent per annum, compounded annually, to and including December 31, 1955; three per cent per annum, compounded annually, from January 1, 1956, to and including December 31, 1963; three and one-quarter per cent per annum, compounded annually, from January 1, 1964, to and including December 31, 1969; and thereafter four per cent per annum, compounded annually.

In determining the reserve value for the purpose of computing the amount of the contributor's annuity, the rate of interest used in the annuity values shall be four per cent per annum, compounded annually, for contributors retiring before October 1, 1956, and after December 31, 1969; three per cent per annum, compounded annually, for contributors retiring between October 1, 1956, and December 31, 1963; and three and one-quarter per cent per annum, compounded annually, for contributors retiring from January 1, 1964, to December 31, 1969. Interest on contributions from contributors within any one calendar year shall begin on the first day of the calendar year next following and shall be computed at the end of each calendar year, except in the case of a contributor who retires before the end of the year.

(J) "Accumulated contributions" means the sum of all amounts credited

to a contributor's individual account in the employees' savings fund together with any current interest thereon, but does not include the interest adjustment at retirement.

(K)(1) "Final average salary" means the quotient obtained by dividing by three the sum of the three full calendar years of contributing service in which the member's earnable salary was highest, except that if the member has a partial year of contributing service in the year the member's employment terminates and the member's earnable salary for the partial year is higher than for any comparable period in the three years, the member's earnable salary for the partial year shall be substituted for the member's earnable salary for the comparable period during the three years in which the member's earnable salary was lowest.

(2) If a member has less than three years of contributing service, the member's final average salary shall be the member's total earnable salary divided by the total number of years, including any fraction of a year, of the member's contributing service.

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final average salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "final average salary" means the member's total earnable salary.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Annuity reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

(N)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

(2) "Disability allowance" means an allowance paid on account of disability under section 145.361 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 145.36 of the Revised Code, as a disability allowance under section 145.361 of the Revised Code, or as a disability benefit under section 145.37 of the Revised Code.

(4) "Disability benefit recipient" means a member who is receiving a

disability benefit.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of the Revised Code.

(P) "Pensions" means annual payments for life derived from contributions made by the employer that at the time of retirement are credited into the annuity and pension reserve fund from the employers' accumulation fund and paid from the annuity and pension reserve fund as provided in this chapter. All pensions shall be paid in twelve equal monthly installments.

(Q) "Retirement allowance" means the pension plus that portion of the benefit derived from contributions made by the member.

(R)(1) Except as otherwise provided in ~~this~~ division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

(a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor;

(b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if the payment is made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary;

(c) Allowances paid by the employer for full maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;

(d) Fees and commissions paid under section 507.09 of the Revised Code;

(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;

(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.

(2) "Earnable salary" does not include any of the following:

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued, but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.

(3) The retirement board shall determine by rule whether any compensation not enumerated in ~~this~~ division (R) of this section is earnable salary, and its decision shall be final.

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be

made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T)(1) "Contributing service" means all service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed by the following formula:

(a) For each month for which the member's earnable salary is two hundred fifty dollars or more, allow one month's credit.

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars, except that if the member's annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which the member worked each month. ~~This division~~ Division (T)(1)(b) of this section shall not reduce any credit earned before January 1, 1985.

(2) Notwithstanding division (T)(1) of this section, an elected official who prior to January 1, 1980, was granted a full year of credit for each year of service as an elected official shall be considered to have earned a full year of credit for each year of service regardless of whether the service was full-time or part-time. The public employees retirement board has no authority to reduce the credit.

(U) "State retirement board" means the public employees retirement board, the school employees retirement board, or the state teachers retirement board.

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.34, and 145.46 of the Revised Code.

(W) "Employer contribution" means the amount paid by an employer as determined by the employer rate including the normal and deficiency contribution rates.

(X) "Public service terminates" means the last day for which a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision

prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's "final average salary."

(Z) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility for benefits under section 145.33 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter; or under a combination of the coverage.

(AA) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this

te; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state.

(BB) "Township constable or police officer in a township police department or district" means any person who is commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code, and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state.

(CC) "Drug agent" means any person who is either of the following:

(1) Employed full-time as a narcotics agent by a county narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full-time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(DD) "Liquor control investigator" means a full-time employee of the department of public safety who is engaged in the enforcement of Chapters 4301. and 4303. of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(EE) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 Of the Revised Code and is in compliance with section 109.77 Of the Revised Code.

(FF) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(FF)~~(GG) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(GG)~~(HH) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(HH)~~(JJ) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(H)~~(KK) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(JJ)~~(LL) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(KK)~~(MM) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full-time, is in compliance with section 109.77 of the Revised Code, and is not a member of the police and firemen's disability and pension fund.

~~(LL)~~(NN) "Ohio veterans' home police officer" means any person who is employed at the Ohio veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(MM)~~(OO) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.14 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(NN)~~(PP) "Special police officer for an institution for the mentally retarded and developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

~~(OO)~~(QQ) "State university law enforcement officer" means any person who is employed full-time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

~~(PP)~~(RR) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full-time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by division (C) of section 109.77 of the Revised Code, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state.

~~(QQ)~~(SS) Notwithstanding section 2901.01 of the Revised Code, "law enforcement officer" means a sheriff, deputy sheriff, township constable or police officer in a township police department or district, drug agent, liquor control investigator, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, Ohio veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, Hamilton county municipal court bailiff, or municipal police officer.

~~(RR)~~(TT) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

~~(SS)~~(UU) "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

Sec. 145.33. (A) Except as provided in division (B) of this section, a member with at least five years of total service credit who has attained age sixty, or who has thirty years of total Ohio service credit, may apply for age and service retirement, which shall consist of:

(1) An annuity having a reserve equal to the amount of the member's accumulated contributions at that time;

(2) A pension equal to the annuity provided by division (A)(1) of this section;

(3) An additional pension, if the member can qualify for prior service, equal to forty dollars multiplied by the number of years, and fraction thereof, of such prior and military service credit;

(4) A basic annual pension equal to one hundred eighty dollars if the member has ten or more years of total service credit as of October 1, 1956, except that the basic annual pension shall not exceed the sum of the annual benefits provided by divisions (A)(1), (2), and (3) of this section. The cost of the basic annual pension shall be included in the deficiency contribution provided by sections 145.48 and 145.50 of the Revised Code.

(5) When a member retires on age and service retirement, the member's total annual single lifetime allowance, including the allowances provided in divisions (A)(1), (2), (3), and (4) of this section, shall be not less than a base amount adjusted in accordance with ~~this~~ division (A)(5) of this section and determined by multiplying the member's total service credit by the greater of the following:

(a) Eighty-six dollars;

(b) Two and one-tenth per cent of the member's final average salary for each of the first thirty years of service plus two and one-half per cent of the member's final average salary for each subsequent year of service.

The allowance shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:

Attained Birthday	or	Years of Total Service Credit	Percentage of Base Amount
58		25	75
59		26	80
60		27	85
61			88
		28	90
62			91
63			94
		29	95
64			97
65		30 or more	100

Members shall vest the right to a benefit in accordance with the following schedule, based on the member's attained age by September 1, 1976:

Percentage

Attained Birthday	of Base Amount
66	102
67	104
68	106
69	108
70 or more	110

(6) The total annual single lifetime allowance that a member shall receive under division (A)(5) of this section shall not exceed the lesser of one hundred per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(B)(1) A member who has at least twenty-five years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer and who has attained age fifty-two may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first twenty years of the member's total service plus two and one-tenth per cent of the member's final average salary multiplied by the number of years of the member's total service credit in excess of twenty years, except that no allowance shall exceed the lesser of ninety per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) A member who has at least fifteen years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer and has attained sixty-two years of age may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance computed as provided in division (B)(1) of this section. The benefit shall not exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(3) A member with at least fifteen years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony; may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit. The benefit shall not

exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. The allowance shall commence on the first day of the calendar month following the month in which the application is filed with the public employees retirement board on or after the attainment by the applicant of age fifty-two.

(4) A member who has at least twenty-five years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after the date of attaining forty-eight years of age, but before the date of attaining fifty-two years of age, may elect to receive a reduced benefit as determined by the following schedule:

Attained Age	Reduced Benefit
48	75% of the benefit payable under division (B)(1) of this section
49	80% of the benefit payable under division (B)(1) of this section
50	86% of the benefit payable under division (B)(1) of this section
51	93% of the benefit payable under division (B)(1) of this section

A member who has at least twenty-five years of law enforcement service credit, upon attaining forty-eight, forty-nine, fifty, or fifty-one years of age, may elect to retire and receive a reduced benefit determined by the above schedule.

If a member elects to receive a reduced benefit on or after the date of attaining forty-eight years of age, but before the date of attaining forty-nine years of age, the reduced benefit is payable from the date the member attained forty-eight years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date of attaining forty-nine years of age, but before the date of attaining fifty years of age, the reduced benefit is payable from the date the member attained forty-nine years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date of attaining fifty years of age, but before the date of attaining fifty-one years of age, the reduced benefit is payable from the date the member attained fifty years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date of attaining fifty-one years

of age, but before the date of attaining fifty-two years of age, the reduced benefit is payable from the date the member attained fifty-one years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later.

Once a member elects to receive a reduced benefit determined by the above schedule and has received a payment, the member may not reelect to change that election.

If a member who has resigned or been discharged has left on deposit the member's accumulated contributions in the employees' savings fund and has not elected to receive a reduced benefit determined by the above schedule, upon attaining fifty-two years of age, the member shall be entitled to receive a benefit computed and paid under division (B)(1) of this section.

(C)(1) A member with service credit as a law enforcement officer and other service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this chapter, including credit for service as a law enforcement officer, used in calculating a retirement allowance under division (A) of this section if the member qualifies for an allowance under that division;

(b) If the member qualifies for an allowance under division (B) of this section, to have the member's service credit as a law enforcement officer used in calculating a benefit under that division and the member's credit for all service other than law enforcement service under this chapter used in calculating a benefit consisting of a single life annuity having a reserve equal to the amount of the member's accumulated contributions and an equal amount of the employer's contributions.

(2) Notwithstanding sections 145.01 and 145.30 of the Revised Code, no more than four years of military service credit granted under section 145.30 of the Revised Code and five years of military service credit purchased under section 145.301 or 145.302 of the Revised Code shall be used in calculating service as a law enforcement officer or the total service credit of that person.

(3) Only credit for the member's service as a law enforcement officer or service credit obtained as a police officer or state highway patrol trooper shall be used in computing the benefits under division (B) of this section for the following:

(a) Any person who originally is commissioned and employed as a deputy sheriff by the sheriff of any county, or who originally is elected sheriff, on or after January 1, 1975;

(b) Any deputy sheriff who originally is employed ~~on or after April 16, 1993~~, as a criminal bailiff or court constable on or after April 16, 1993;

(c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;

(d) Any person who originally is employed as a county narcotics agent on or after September 26, 1984;

(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, liquor control investigator, park officer, forest officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, Ohio veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, or municipal police officer on or after December 15, 1988;

(f) Any person who ~~is~~ originally is employed as a state university law enforcement officer; on or after November 6, 1996;

(g) Any person who ~~is~~ originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996;

(h) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after ~~the effective date of this amendment~~ September 16, 1998;

(i) Any person who originally is employed as a preserve officer on or after the effective date of this amendment;

(j) Any person who originally is employed as a natural resources law enforcement staff officer on or after the effective date of this amendment.

(D) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.

Sec. 149.01. Each elective state officer, the adjutant general, the adult parole authority, the department of agriculture, the director of administrative services, the public utilities commission, the superintendent of insurance, the superintendent of financial institutions, the superintendent of purchases and printing, ~~the division of geological survey~~, the state commissioner of soldiers' claims, the fire marshal, the industrial commission, the administrator of workers' compensation, the state department of transportation, the department of health, the state medical board, the state dental board, the board of embalmers and funeral directors, the department of human services, the Ohio commission for the blind, the accountancy board of Ohio, the state council of uniform state laws, the board of commissioners of the sinking fund, the department of taxation, the board of tax appeals, the clerk of the supreme court, the division of liquor control, the director of state armories, the trustees of the Ohio state university, and every

private or quasi-public institution, association, board, or corporation receiving state money for its use and purpose; shall make annually, at the end of each fiscal year, in quadruplicate, a report of the transactions and proceedings of that office or department for ~~such that~~ fiscal year, excepting receipts and disbursements unless otherwise specifically required by law. ~~Such~~ The report shall contain a summary of the official acts of ~~such the~~ officer, board, council, commission, institution, association, or corporation; and ~~such any~~ suggestions and recommendations ~~as that~~ are proper. On the first day of August of each year, one of ~~such the~~ reports shall be filed with the governor, one with the secretary of state, and one with the state library, and one shall be kept on file in the office of ~~such the~~ officer, board, council, commission, institution, association, or corporation.

Sec. 505.82. (A) If a board of township trustees by a unanimous vote; or, in the event of the unavoidable absence of one trustee, by an affirmative vote of two trustees adopts a resolution declaring that an emergency exists ~~which that~~ threatens life or property within the unincorporated territory of the township or that such an emergency is imminent, the board may exercise the following powers during the emergency in the one-month period following the adoption of the resolution:

~~(A) Notwithstanding section 1517.16 of the Revised Code, if (1) If~~ an owner of an undedicated road or stream bank in the unincorporated territory of the township has not provided for the removal of snow, ice, debris, or other obstructions from the road or bank, provide for ~~such that~~ removal. Prior to providing for ~~such the~~ removal, the board of township trustees shall give, or make good faith attempt to give, oral notice to the owner of the road or bank of the trustees' intent to clear the road or bank and impose a service charge for doing so. The board shall establish just and equitable service charges for ~~such the~~ removal to be paid by the owners of the road or bank. The trustees shall keep a record of the costs incurred by the township in removing snow, ice, debris, or other obstructions from the road or bank. The service charges shall be based on these costs and shall be in an amount sufficient to recover these costs. If there is more than one owner of the road or bank, the board shall allocate the service charges among the owners on an equitable basis. The board shall notify, in writing, each owner of the road or bank of the amount of the service charge and shall certify the charges to the county auditor. The charges shall constitute a lien upon the property. The auditor shall place the charges on a special duplicate to be collected as other taxes and returned to the township general fund.

~~(B)(2)~~ Contract for the immediate acquisition, replacement, or repair of equipment needed for the emergency situation, without following the

competitive bidding requirements of section 5549.21 or any other section of the Revised Code.

~~(C)~~(B) The removal of snow, ice, debris, or other obstructions from an undedicated road by a board of township trustees acting pursuant to a resolution adopted under division (A) of this section does not constitute approval or acceptance of the undedicated road.

~~(D)~~(C) As used in this section, "undedicated road" means a road that has not been approved and accepted by the board of county commissioners and is not a part of the state, county, or township road systems as provided in section 5535.01 of the Revised Code.

(D) Nothing in this section shall be construed to waive the requirement under section 1517.16 Of the Revised Code that approval of plans be obtained from the director of natural resources or the director's representative prior to modifying or causing the modification of the channel of any watercourse in a wild, scenic, or recreational river area outside the limits of a municipal corporation.

Sec. 918.12. (A) An establishment, as defined in section 918.01 of the Revised Code, that slaughters or otherwise prepares meat of bison, cervidea, other bovidea, camelidae and hybrids thereof, ratites, domestic rabbits, domestic deer, as defined in section 1531.01 Of the Revised Code, or other animals determined by the director of agriculture by rule; for human food purposes may receive voluntary state inspection, as defined in division (B) of section 918.01 of the Revised Code, if the establishment complies with sections 918.01 to 918.11 of the Revised Code and the rules adopted under those sections for establishments that slaughter or otherwise prepare for food purposes other animals and if the establishment complies with division (C) of this section.

(B) The owner of an establishment, as defined in section 918.21 of the Revised Code, who slaughters or otherwise prepares the meat of; pheasant, quail, partridge, peafowl, grouse, captive raised wild turkey, captive raised waterfowl, or other poultry determined by the director by rule may receive voluntary state inspection as defined in division (I) of section 918.21 of the Revised Code and the rules adopted under those sections for establishments that slaughter or otherwise prepare for food purposes other poultry and if the establishment complies with division (C) of this section and sections 918.21 to 918.28 of the Revised Code.

(C) ~~The~~ An establishment ~~pays~~ that receives voluntary state inspection under division (A) or (B) of this section shall pay the costs of the inspection at a rate and under terms established by rule of the director of agriculture in accordance with section 918.04 of the Revised Code.

Sec. 971.01. As used in this chapter, "owner" means both of the following:

(A) The owner of land in fee simple, of estates for life, or of rights-of-way; while used by the owners thereof as farm outlets, but proceedings;

(B) The department of natural resources with regard to any land that it owns, leases, manages, or otherwise controls and that is adjacent to land used to graze livestock.

Proceedings under this chapter do not bind the owner unless ~~he~~ the owner is notified as provided in section 971.13 of the Revised Code.

Sec. 1501.013. (A) Subject to division (B) of this section, the director of natural resources may designate an employee of the department of natural resources as a natural resources law enforcement staff officer. Such an officer may do any or all of the following:

(1) Coordinate the law enforcement activities, training, and policies of the department;

(2) Serve as the department's liaison with other law enforcement agencies and jurisdictions and as the director's representative regarding law enforcement activities;

(3) Conduct internal investigations of employees of the department as necessary;

(4) Perform other functions related to the department's law enforcement activities, training, and policies that the director assigns to the officer.

A natural resources law enforcement staff officer, on any lands or waters owned, controlled, maintained, or administered by the department, has the authority specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules.

The governor, upon the recommendation of the director, shall issue to a natural resources law enforcement staff officer a commission indicating authority to make arrests as provided in division (A) of this section.

The director shall furnish a suitable badge to a commissioned natural resources law enforcement staff officer as evidence of that officer's authority.

(B)(1) As used in division (B) of this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(2) The director shall not designate a person as a natural resources law enforcement staff officer under division (A) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a

permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(3) The director shall terminate the employment as a natural resources law enforcement staff officer of a person designated as such an officer if that person does either of the following:

(a) Pleads guilty to a felony;

(b) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the natural resources law enforcement staff officer agrees to surrender the certificate awarded to that officer under section 109.77 of the Revised Code.

(4) The director shall suspend from employment as a natural resources law enforcement staff officer a person designated as such an officer if that person is convicted, after trial, of a felony. If the natural resources law enforcement staff officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken, or if the officer does not file a timely appeal, the director shall terminate the employment of the natural resources law enforcement staff officer. If the natural resources law enforcement staff officer files an appeal that results in the officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the officer, the director shall reinstate the natural resources law enforcement staff officer. A natural resources law enforcement staff officer who is reinstated under division (B)(4) of this section shall not receive any back pay unless the officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the officer of the felony.

(5) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1999.

(6) The suspension from employment, or the termination of the employment, of a natural resources law enforcement staff officer under division (B)(3) or (4) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 1501.02. The director of natural resources may enter into cooperative or contractual arrangements with the United States or any agency or department thereof, other states, other departments and subdivisions of this state, or any other person or body politic for the accomplishment of the purposes for which the department of natural resources was created. The director shall cooperate with, and not infringe upon the rights of, other state departments, divisions, boards, commissions, and agencies, political subdivisions, and other public officials and public

and private agencies in the conduct of conservation plans and other matters in which the interests of the department of natural resources and the other departments and agencies overlap.

The director, by mutual agreement, may utilize the facilities and staffs of state-supported educational institutions in order to promote the conservation and development of the natural resources of the state.

All funds made available by the United States for the exclusive use of any division shall be expended only by that division and only for the purposes for which the funds were appropriated. In accepting any such funds for the acquisition of lands or interests ~~therein~~ in them to be used for open-space purposes including park, recreational, historical, or scenic purposes, or for conservation of land or other natural resources, the director may agree on behalf of the state that lands or interests ~~therein~~ in them acquired in part with those funds shall not be converted to other uses except pursuant to further agreement between the director and the United States.

The director shall adopt rules in accordance with Chapter 119. Of the Revised Code establishing guidelines for entering into and may enter into a cooperative or contractual arrangement with any individual, agency, organization, or business entity to assist the department in funding a program or project of the department, its divisions, or its offices, through securing, without limitation, donations, sponsorships, marketing, advertising, and licensing arrangements. state moneys appropriated to the department shall continue to be used as authorized and shall not be redirected to any other purpose as a result of financial savings resulting from the department's entering into the cooperative or contractual arrangement.

The director may enter into a mutual aid compact with the chief law enforcement officer of any federal agency, state agency, county, township, municipal corporation, or other political subdivision or with the superintendent of the state highway patrol to enable forest officers, park officers, and state watercraft officers and the law enforcement officers of the respective federal or state agencies or political subdivisions or the state highway patrol to assist each other in the provision of police services within each other's jurisdiction.

Sec. 1501.10. Advertisement for bids for the leasing of public service facilities in state parks shall be published in any newspaper of general circulation in Franklin county and each county in which the facility to be leased is situated. The publication shall be made once each week for four consecutive weeks prior to the date fixed for the acceptance of the bids. The notice shall set forth the pertinent facts concerning the facility to be leased and the periods of required operation during the year and shall refer to the

terms and conditions that the lease shall include, which shall be on file in the office of the director of natural resources and open to public inspection, except that questionnaires and financial statements submitted under this section shall be confidential and shall not be open to public inspection.

~~Such~~ The public service facilities may be leased for ~~such~~ a period of years ~~as that~~ may be determined by the director, provided that the director ~~may~~, at the expiration of the original lease, without advertisement for bids, may grant the lessee a renewal of the lease for an additional period not to exceed four years. Leases executed under this section may contain any provisions ~~which that~~ that the director considers necessary, provided that the following provisions shall be contained in the leases:

(A) The lessee shall be responsible for keeping the facilities in good condition and repair, reasonable wear and tear and damages caused by casualty or acts beyond the control of the lessee excepted.

(B) The lessee shall operate the facilities for ~~such~~ such periods during the year ~~as that~~ that the director determines are necessary to satisfy the needs of the people of the state, provided that the periods of required operation shall be set forth in the notice for the acceptance of bids.

(C) The lessee, upon the execution of the lease, shall furnish ~~a~~ a surety to ensure that the lessee shall perform fully all terms of the lease. The surety shall be in the form of a performance bond or, an irrevocable letter of credit to the state in an amount as, cash, or negotiable certificates of deposit of any bank or savings and loan association organized or transacting business in the United states, the cash, market value of the certificates of deposit, or face value of the irrevocable letter of credit shall be equal to or greater than the amount of the bond prescribed by the director, to ensure that the lessee shall fully perform all terms of in the lease.

immediately upon a deposit of cash or certificates of deposit, the director shall deliver them to the treasurer of state, who shall be responsible for their safekeeping and hold them in trust for the purposes for which they have been deposited. A lessee making a deposit of cash or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the director, all or any portion of the cash or certificates of deposit upon depositing with the treasurer of state cash or negotiable certificates of deposit issued by any bank organized or transacting business in this state equal in par value to the par value of the cash or certificates of deposit withdrawn. A lessee may demand and receive from the treasurer of state all interest or other income from any such certificates as it becomes due.

The director may lease any public service facilities in state parks to the person, ~~firm, partnership, association, or corporation~~ who submits the

highest and best bid under the terms set forth in this section and in accordance with the rules of the director, taking into account the financial responsibility and the ability of the lessee to operate the facilities. Bids shall be sealed and opened at a date and time certain, published in advance.

This section does not apply to a lease and contract executed under section 1501.012 of the Revised Code.

Sec. 1502.01. As used in this chapter:

(A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on public property, on private property not owned by ~~him~~ the person, or in or on waters of the state unless one of the following applies:

(1) The person has been directed to do so by a public official as part of a litter collection drive;

(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements;

(3) The person has been issued a permit or license covering the material pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the materials.

(C) "Agency of the state" includes, but is not limited to, an "agency" subject to Chapter 119. of the Revised Code and a "state university or college" as defined in section 3345.12 of the Revised Code.

(D) "Waste reduction" means activities that decrease the initial production of waste materials at their point of origin.

(E) "Enterprise" means a business with its principal place of business in this state and that proposes to engage in research and development or recycling in this state.

(F) "Research and development" means inquiry, experimentation, or demonstration to advance basic scientific or technical knowledge or the application, adaptation, or use of existing or newly discovered scientific or technical knowledge regarding recycling, waste reduction, or litter prevention.

(G) "Recyclables" means waste materials that are collected, separated, or processed and used as raw materials or products.

(H) "Recycling market development" means activities that stimulate the demand for recycled products, provide for a consistent supply of recyclables

to meet the needs of recycling industries, or both.

(I) "Solid waste management districts" means solid waste management districts established under Chapter 343. of the Revised Code.

Sec. 1502.03. (A) The chief of recycling and litter prevention shall establish and implement statewide waste reduction, recycling, recycling market development, and litter prevention programs that include all of the following:

(1) The assessment of waste generation within the state and implementation of waste reduction practices;

(2) The implementation of recycling and recycling market development activities and projects, including all of the following:

(a) Collection of recyclables;

(b) Separation of recyclables;

(c) Processing of recyclables;

(d) Facilitation and encouragement of the use of recyclables and products made with recyclables;

~~(e) Research and development regarding recycling activities and materials or products manufactured with recyclables;~~

~~(f)~~ Education and training concerning recycling and products manufactured with recyclables;

~~(g)~~(f) Public awareness campaigns to promote recycling;

~~(h)~~(g) Other activities and projects that promote recycling and recycling market development.

(3) Litter prevention assistance to enforce antilitter laws, educate the public, and stimulate collection and containment of litter;

(4) Research and development regarding waste reduction, recycling, and litter prevention, including, without limitation, research and development regarding materials or products manufactured with recyclables.

(B) The chief, with the approval of the director of natural resources, may enter into contracts or other agreements and may execute any instruments necessary or incidental to the discharge of ~~his~~ the chief's responsibilities under this chapter.

Sec. 1502.04. There is hereby created within the division of recycling and litter prevention the recycling and litter prevention advisory council consisting of thirteen members. The speaker of the house of representatives shall appoint one member of the house of representatives to the council, and the president of the senate shall appoint one member of the senate to the council. If the president of the senate belongs to the same political party as the speaker of the house of representatives, the president shall appoint a member of the senate who belongs to a different political party as

recommended by the minority leader of the senate. The speaker of the house of representatives and the president of the senate shall make their initial appointments to the council within sixty days after ~~the effective date of this amendment~~ JULY 20, 1994. Each member appointed by the speaker of the house of representatives or the president of the senate shall serve for a term of office of three years. The appropriate appointing authority may fill any vacancy occurring during the term of any member whom ~~he~~ the appointing authority has appointed to the advisory council.

The remaining eleven members shall be appointed by the governor with the advice and consent of the senate and shall be persons with knowledge of or experience in recycling or litter prevention programs. The council shall have broad based representation of interests including agriculture, labor, the environment, manufacturing, wholesale and retail industry, and the public. One of the business members shall be from the commercial recycling industry, and another shall be from an industry required to pay taxes under section 5733.065 of the Revised Code. The director of natural resources shall not be a member of the council. The governor shall make ~~his~~ initial appointments to the council within thirty days after October 20, 1987. Of ~~his~~ the governor's initial appointments to the council, five shall be for a term of one year and six shall be for a term of two years. Thereafter, terms of office shall be for three years. Each member appointed by the governor shall hold office from the date of ~~his~~ the member's appointment until the end of the term for which ~~he~~ the member was appointed. In the event of death, removal, resignation, or incapacity of a member of the council appointed by the governor, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which ~~his~~ the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor at any time may remove any of ~~his~~ the governor's appointees from the council for misfeasance, nonfeasance, or malfeasance in office.

Members of the council may be reappointed.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the chairperson or a majority of the members. The council annually shall select from among its members a chairperson, a vice-chairperson, and a secretary to keep a record of its proceedings.

A majority vote of the members of the council is necessary to take action in any matter.

A member of the council shall serve without compensation for attending council meetings, but shall be reimbursed for all traveling, hotel, and other ordinary and necessary expenses incurred in the performance of ~~his~~ the member's work as a member of the council.

Membership on the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

The council shall do all of the following:

(A) Assist the interagency recycling market development workgroup created in section 1502.10 of the Revised Code in executing its duties under division (A) of that section;

(B) In conjunction with the chief of recycling and litter prevention and with the approval of the director of natural resources, establish criteria by which to certify, and certify, agencies of the state, municipal corporations with a population of more than fifty thousand, counties, and solid waste management districts as eligible to receive grants under section 1502.05 of the Revised Code;

(C) In conjunction with the chief and with the approval of the director, establish criteria by which to certify, and certify, political subdivisions for receipt of special grants for ~~novel or innovative~~ activities or projects that are intended to accomplish the purposes of any of the programs established under section 1502.03 of the Revised Code;

(D) Advise the chief in carrying out ~~his~~ the chief's duties under this chapter.

Sec. 1502.05. (A) The chief of recycling and litter prevention, pursuant to division (B) of section 1502.04 of the Revised Code and with the approval of the director of natural resources, may make grants from the recycling and litter prevention fund created in section 1502.02 of the Revised Code to accomplish the purposes of the programs established under section 1502.03 of the Revised Code.

(B) Except as provided in division (C) of this section, the chief, with the approval of the director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division (B) of section 1502.04 of the Revised Code that applies for a grant for an activity or project that is intended to further the purposes of any program established under division (A)(1) ~~or~~ (2), or (4) of section 1502.03 of the Revised Code to provide a matching contribution of not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded

der division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The chief may consider cooperating contributions in the form of state of the art new equipment or in other forms if the chief determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the chief considers to be appropriate.

(D)(1) The chief, with the approval of the director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division (B) of section 1502.04 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section 1502.03 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as determined by the chief using the most recently available figures from the United States census bureau, to provide a matching contribution as follows:

(a) Up to ten per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above ninety per cent of the median county per capita income of the state, but equal to or below one hundred per cent of the median county per capita income of the state;

(b) Up to twenty per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above the median county per capita income of the state.

(2) ~~If the eligible applicant is a joint solid waste management district and at least fifty per cent of the counties comprising the district have a per capita income equal to or below ninety per cent of the median county per capita income of the state, the district need not provide a matching contribution for a grant under division (D)(1) of this section. If at least fifty per cent of the counties comprising the district have a per capita income above ninety per cent of the median county per capita income of the state,~~

~~but equal to or below one hundred per cent of the median county per capita income of the state, the district shall provide a matching contribution in accordance with division (D)(1)(a) of this section. If at least fifty per cent of the counties comprising the district have a per capita income above the median county per capita income of the state, the district shall provide a matching contribution in accordance with division (D)(1)(b) of this section~~ or is filing a joint application on behalf of two or more counties, the matching contribution required under division (D)(1) of this section shall be the average of the matching contributions of all of the counties covered by the application as determined in accordance with that division. The matching contribution of a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state shall be included as zero in calculating the average matching contribution.

(E) After receiving notice from the director of environmental protection that each county within the state is subject to the solid waste management plan of a solid waste management district, the chief shall ensure that not less than fifty per cent of the moneys distributed as grants under this section shall be expended for the purposes of recycling and recycling market development.

Sec. 1502.99. Whoever violates section ~~1502.06~~ 1502.07 of the Revised Code is guilty of a minor misdemeanor. Each day of violation constitutes a separate offense.

Sec. 1503.05. (A) The chief of the division of forestry may sell timber and other forest products from the state forest and state forest nurseries whenever the chief considers such a sale desirable and, with the approval of the attorney general and the director of natural resources, may sell portions of the state forest lands when such a sale is advantageous to the state.

(B) Except as otherwise provided in this section, a timber sale agreement shall not be executed unless the person or governmental entity bidding on the sale executes and files a surety bond conditioned on completion of the timber sale in accordance with the terms of the agreement in an amount equal to twenty-five per cent of the highest value cutting section. All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

In lieu of a bond, the bidder may deposit any of the following:

- (1) Cash in an amount equal to the amount of the bond;
- (2) United States government securities having a par value equal to or greater than the amount of the bond;
- (3) Negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, having a par value equal to or greater than the amount of the bond.

The cash or securities shall be deposited on the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any of the certificates to pledge securities of the aggregate market value equal to the amount of the certificate or certificates that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate or certificates of deposit.

Immediately upon a deposit of cash, securities, certificates of deposit, or letters of credit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of the deposits. A bidder making a deposit of cash, securities, certificates of deposit, or letters of credit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, certificates of deposit, or letters of credit upon depositing with the treasurer of state cash, other United States government securities, or other negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, equal in par value to the par value of the cash, securities, certificates of deposit, or letters of credit withdrawn.

A bidder may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited with and in the possession of the treasurer of state mature or are called for payment by ~~the~~ their issuer ~~thereof~~, the treasurer of state, at the request of the bidder who deposited them, shall convert the proceeds of the redemption or payment of the securities into ~~such~~ other United States government securities, negotiable certificates of deposit, or cash as the bidder designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or governmental agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, certificates, or letters of credit forfeited. The chief thereupon shall

certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the bond, cash, securities, certificates, or letters of credit.

In lieu of total forfeiture, the surety, at its option, may cause the timber sale to be completed or pay to the treasurer of state the cost thereof.

All moneys collected as a result of forfeitures of bonds, cash, securities, certificates, and letters of credit under this section shall be credited to the state forest fund created in this section.

(C) The chief may grant easements and leases on portions of the state forest lands and state forest nurseries under ~~such~~ terms ~~as~~ that are advantageous to the state, and the chief may grant mineral rights on a royalty basis on those lands and nurseries, with the approval of the attorney general and the director.

(D) All moneys received from the sale of state forest lands, or in payment for easements or leases on or as rents from those lands or from state forest nurseries, shall be paid into the state treasury to the credit of the state forest fund, which is hereby created. All moneys received from the sale of standing timber taken from the state forest lands shall be deposited into the general revenue fund. All moneys received from the sale of forest products, other than standing timber, and minerals taken from the state forest lands and state forest nurseries, together with royalties from mineral rights, shall be paid into the state forest fund.

At the time of making such a payment or deposit, the chief shall determine the amount and gross value of all such products sold or royalties received from lands and nurseries in each county, in each township within the county, and in each school district within the county. Afterward the chief shall send to each county treasurer a copy of the determination and shall provide for payment to the county treasurer, for the use of the general fund of that county from the amount so received as provided in this division, an amount equal to eighty per cent of the gross value of the products sold or royalties received from lands and nurseries located in that county. The county auditor shall do all of the following:

(1) Retain for the use of the general fund of the county one-fourth of the amount received by the county under division (D) of this section;

(2) Pay into the general fund of any township located within the county and containing such lands and nurseries one-fourth of the amount received by the county from products sold or royalties received from lands and nurseries located in the township;

(3) Request the board of education of any school district located within the county and containing such lands and nurseries to identify which fund or

funds of the district should receive the moneys available to the school district under division (D)(3) of this section. After receiving notice from the board, the county auditor shall pay into the fund or funds so identified one-half of the amount received by the county from products sold or royalties received from lands and nurseries located in the school district, distributed proportionately as identified by the board.

The division of forestry shall not supply logs, lumber, or other forest products or minerals, taken from the state forest lands or state forest nurseries, to any other agency or subdivision of the state unless payment is made therefor in the amount of the actual prevailing value thereof. This section is applicable to the moneys so received. All moneys received from the sale of reforestation tree stock or other revenues derived from the operation of the state forests, facilities, or equipment shall be paid into the state forest fund.

The fund shall not be expended for any purpose other than the administration, operation, maintenance, development, or utilization of the state forests, forest nurseries, and forest programs, for facilities or equipment incident ~~thereto~~ to them, or for the further purchase of lands for state forest or forest nursery purposes.

Sec. 1503.29. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Subject to division (D) of this section, any person employed by the chief of the division of forestry for administrative service in a state forest may be designated by the chief and known as a forest officer. A forest officer, on any lands or waters owned, controlled, maintained, or administered by the department of natural resources and on highways, as defined in section 4511.01 Of the Revised Code, adjacent to lands and waters owned, controlled, maintained, or administered by the division of forestry, has the authority ~~vested in police officers~~ specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that ~~such~~ the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an enforcement officer of that division in an emergency.

(2) A forest officer, in or along any watercourse within, abutting, or upstream from the boundary of any area administered by the department, has the authority to enforce section 3767.32 of the Revised Code and other laws prohibiting the dumping of refuse into or along waters and to make

arrests for violation of those laws. The jurisdiction of forest officers shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

(3) A forest officer may enter upon private and public lands to investigate an alleged violation of, and may enforce, this chapter and sections 2909.02, 2909.03, and 2909.06 of the Revised Code when the alleged violation or other act pertains to forest fires.

(C)(1) A forest officer may render assistance to a state or local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency. Forest officers serving outside the division of forestry under this section or serving under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

(2) Forest officers serving outside the division of forestry under this section or under a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses forest officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any forest officer acting under this section or under a mutual aid compact.

(D)(1) The chief of the division of forestry shall not designate a person as a forest officer pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The chief of the division of forestry shall terminate the employment as a forest officer of a person designated as a forest officer under division (B)(1) of this section if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the forest officer agrees to surrender the certificate awarded to the forest officer under section 109.77 of the Revised Code.

(b) The chief shall suspend from employment as a forest officer a person designated as a forest officer under division (B)(1) of this section if that person is convicted, after trial, of a felony. If the forest officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the forest officer does not file a timely appeal, the chief shall terminate the employment of that forest officer. If the forest officer files an appeal that results in that forest officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the forest officer, the chief shall reinstate that forest officer. A forest officer who is reinstated under division (D)(2)(b) of this section shall not receive any back pay unless that forest officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the forest officer of the felony.

(3) Division (D) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a forest officer under division (D)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 1503.43. (A) As used in this section:

(1) "Wilderness area" means ~~an~~ a contiguous area of relatively undeveloped state-owned land administered by the division of forestry and consisting of not less than five thousand acres or of sufficient size as to make practicable its preservation and use in an unimpaired condition that either has retained its natural character and influence or has been substantially restored to a near natural appearance and that meets both of the following qualifications:

(a) The area is one in which ~~man's~~ humankind's past influences are largely unnoticed;

(b) The area has outstanding opportunities for solitude or for a primitive and unconfined type of recreation.

(2) "Utility facility" includes, without limitation, towers, poles, pipes, sewers, tubing, conduits, conductors, cables, valves, lines, wires, manholes, and appurtenances thereto owned by a utility facility operator.

(3) "Utility facility operator" means a person or public authority that supplies any of the following materials or services by means of a utility facility:

(a) Flammable, toxic, or corrosive gas;

(b) Crude oil, petroleum products, or hazardous liquids;

(c) Coal;

- (d) Electricity;
- (e) Electronic, telephonic, or telegraphic communications;
- (f) Television signals;
- (g) Sewage disposal or drainage;
- (h) Potable water;
- (i) Steam or hot water.

(B) That portion of contiguous state lands located in Scioto and Adams counties and within the Shawnee state forest and bounded by forest road seventeen and sunshine ridge to the north, by upper Twin Creek road to the east and northeast, by United States route fifty-two to the south, and by lower Twin Creek road to the west and southwest is hereby designated the Shawnee wilderness area. Except as otherwise specifically provided by this section or by rule adopted under this chapter, the provisions of this chapter apply to the Shawnee wilderness area, and that area shall continue to be a part of the Shawnee state forest.

(C) The Shawnee wilderness area shall be managed to preserve natural conditions and ensure the continuance of natural processes. The chief of the division of forestry, with the approval of the director of natural resources, shall administer the Shawnee wilderness area in accordance with a management plan, which ~~he~~ the chief shall develop and adopt within one year after September 14, 1988. Sixty days prior to adopting a plan, the chief shall solicit public review and comment on a draft plan. At least once every ten years, the chief shall conduct a review of the plan, with public input, and revise the plan as appropriate. The chief shall make the plan available for review by any person upon request.

(D) Notwithstanding any other authority granted to ~~him~~ the chief under this chapter, the chief shall include within the management plan adopted ~~by him~~ under division (C) of this section prohibitions of the following activities within the Shawnee wilderness area except for the areas exempted in division (E) of this section:

(1) Picking, removal, cutting, or alteration in any manner of any vegetation unless the person ~~has~~ first has obtained written consent from the chief for that activity and the action is necessary for appropriate public access, the preservation or restoration of a plant or wildlife species, or the documentation of scientific values;

(2) Granting of any easement or license, or sale or lease of any of the land, for any purpose. Division (D)(2) of this section does not apply to any private easement or license in existence on September 14, 1988.

(3) Exploration for or extraction of any coal, oil, gas, or minerals;

(4) Operation, construction, or installation of a utility facility above or

below the surface of the land;

(5) Operation of a commercial enterprise;

(6) Except as provided in division (D)(7) of this section, construction of a road upon any of the land or use of the land as a road;

(7) Except as is necessary to meet emergency requirements for administration of the area:

(a) Landing of an aircraft;

(b) Operation of a motor vehicle, motor boat, other form of mechanical transport, or motorized equipment;

(c) Construction of any building or other structure;

(d) Use of the land as a temporary road.

(E)(1) The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibitions of division (D) of this section:

(a) The Buena Vista manager's residence;

(b) The Buena Vista walnut seed orchard;

(c) The Twin Creek fire tower.

(2) At any time that the chief makes a determination that it is no longer necessary for the administration of the Shawnee state forest or the state forest system for an area excluded in division (E)(1) of this section to be excluded, the area shall become subject to the prohibitions of division (D) of this section.

(F) The chief, in developing a management plan under division (C) of this section, may not prohibit any hunting, fishing, or trapping that is done in conformity with Chapters 1531. and 1533. of the Revised Code or any rules adopted under those chapters.

Sec. 1504.02. (A) The division of real estate and land management shall do all of the following:

(1) Except as otherwise provided in the Revised Code, coordinate and conduct all real estate functions for the department of natural resources, including at least acquisitions by purchase, lease, gift, devise, bequest, appropriation, or otherwise; grants through sales, leases, exchanges, easements, and licenses; inventories of land; and other related general management duties;

(2) Assist the department and its divisions by providing department-wide planning, including at least master planning, comprehensive planning, capital improvements planning, and special purpose planning such as trails coordination and planning under section 1519.03 of the Revised Code;

(3) On behalf of the director of natural resources, administer the coastal

management program established under sections 1506.01 to 1506.03 and 1506.05 to 1506.09 of the Revised Code and consult with and provide coordination among state agencies, political subdivisions, the United States and agencies of it, and interstate, regional, and areawide agencies to assist the director in executing ~~his~~ the director's duties and responsibilities under that program and to assist the department as the lead agency for the development and implementation of the program;

(4) On behalf of the director, administer sections 1506.10 and 1506.11 and sections 1506.31 to 1506.36 of the Revised Code;

(5) Cooperate with the United States and agencies of it and with political subdivisions in administering federal recreation moneys under the "Land and Water Conservation Fund Act of 1965," 78 Stat. 897, 16 U.S.C.A. 4601-8, as amended; prepare and distribute the statewide comprehensive outdoor recreation plan; and administer the state recreational vehicle fund created in section 4519.11 of the Revised Code;

(6)(a) Support the geographic information system needs for the department as requested by the director, which shall include, but not be limited to, all of the following:

(i) Assisting in the training and education of department resource managers, administrators, and other staff in the application and use of ~~general~~ geographic information system technology;

(ii) Providing technical support to the department in the design, preparation of data, and use of appropriate geographic information system applications in order to help solve resource related problems and to improve the effectiveness and efficiency of department delivered services;

(iii) Creating, maintaining, and documenting spatial digital data bases for the division and for other divisions as assigned by the director.

(b) Provide information to and otherwise assist government officials, planners, and resource managers in understanding land use planning and resource management;

(c) Provide continuing assistance to local government officials and others in natural resource digital data base development and in applying and utilizing the geographic information system for land use planning, current agricultural use; value assessment, development reviews, coastal management, and other resource management activities;

(d) Coordinate and administer the remote sensing needs of the department including the collection and analysis of aerial photography, satellite data, and other data pertaining to land, water, and other resources of the state;

(e) Prepare and publish maps and digital data relating to the state's land

use and land cover over time on a local, regional, and statewide basis;

(f) Locate and distribute hard copy maps, digital data, aerial photography, and other resource data and information to government agencies and the public.

(7) Prepare special studies and execute any other duties, functions, and responsibilities requested by the director.

(B) The division may do any of the following:

(1) Coordinate such environmental matters concerning the department and the state as are necessary to comply with the "National Environmental Policy Act of 1969," 83 Stat. 852, 42 U.S.C.A. 4321, as amended, the "Intergovernmental Cooperation Act of 1968," 82 Stat. 1098, 31 U.S.C.A. 6506, and the "Federal Water Pollution Control Act," 91 Stat. 1566 (1977), 33 U.S.C.A. 1251, as amended, and regulations adopted under those acts;

(2) On behalf of the director, administer Chapter 1520. of the Revised Code, except divisions (B) to (F) of section 1520.03 of the Revised Code, division (A) of section 1520.04 of the Revised Code as it pertains to those divisions, and section 1520.05 of the Revised Code;

(3) Administer any state or federally funded grant program that is related to natural resources and recreation as considered necessary by the director.

Sec. 1505.10. The chief of the division of geological survey shall prepare and publish for public distribution annual reports that shall include all of the following:

(A) A list of the operators of mines, quarries, pits, or other mineral resource extraction operations in this state;

(B) Information on the location of and commodity extracted at each operation;

(C) Information on the employment at each operation;

(D) Information on the tonnage of coal or other minerals extracted at each operation along with the method of extraction;

(E) Information on the production, use, distribution, value, and other facts relative to the mineral resources of the state that may be of public interest.

Each operator engaged in the extraction of minerals shall submit an accurate and complete annual report, on or before the last day of ~~February~~ January each year, to the chief of the division of geological survey on forms provided by the chief and containing the information specified in divisions (A) to (E) of this section for the immediately preceding calendar year. The chief of the division of mines and reclamation may use all or portions of the information collected pursuant to this section in preparing the annual report

required by section 1561.04 of the Revised Code.

No person shall fail to comply with this section.

Sec. 1505.99. (A) Whoever violates section 1505.07 of the Revised Code shall be fined not less than one thousand nor more than two thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than two thousand nor more than five thousand dollars.

(B) Whoever violates section 1505.10 of the Revised Code shall be fined not less than one hundred nor more than one thousand dollars on a first offense; on each subsequent offense, the person shall be fined not less than one thousand nor more than two thousand dollars. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under this division shall be paid into the geological mapping fund created in section 1505.09 of the Revised Code.

Sec. 1506.02. (A) The department of natural resources is hereby designated the lead agency for the development and implementation of a coastal management program. The director of natural resources:

(1) Shall develop and adopt the coastal management program document ~~no later than December 31, 1994~~. The director shall cooperate and coordinate with other agencies of the state and its political subdivisions in the development of the document. Before adopting the document, the director shall hold four public hearings on it in the coastal area, and may hold additional public meetings, to give the public the opportunity to make comments and recommendations concerning its terms. The director shall consider the public comments and recommendations before adopting the document. The director may amend the coastal management program document, provided that, prior to making changes in it, the director notifies by mail those persons who submitted comments and recommendations concerning the original document and appropriate agencies of the state and its political subdivisions. The director may hold at least one public hearing on the proposed changes.

(2) Shall administer the coastal management program in accordance with the coastal management program document, this chapter, and rules adopted under it;

(3) Shall adopt and may amend or rescind rules under Chapter 119. of the Revised Code for the implementation, administration, and enforcement of the coastal management program and the other provisions of this chapter. Before the adoption, amendment, or rescission of rules under ~~this division~~ (A)(3) of this section, the director shall do all of the following:

(a) Maintain a list of interested public and private organizations and

mail notice to those organizations of any proposed rule or amendment to or rescission of a rule at least thirty days before any public hearing on the proposal;

(b) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy within five days after receipt of the request;

(c) Consult with appropriate statewide organizations and units of local government that would be affected by the proposed rule, amendment, or rescission. ~~Although~~

Although the director is expected to discharge these duties diligently, failure to mail any notice or copy or to so consult with any person is not jurisdictional and shall not be construed to invalidate any proceeding or action of the director.

(4) Shall provide for consultation and coordination between and among state agencies, political subdivisions of the state, and interstate, regional, areawide, and federal agencies in carrying out the purposes of the coastal management program and the other provisions of this chapter;

(5) Shall, to the extent practicable and consistent with the protection of coastal area resources, coordinate the rules and policies of the department of natural resources with the rules and policies of other state and federal agencies to simplify and consolidate the regulation of activities along the Lake Erie shoreline;

(6) May, to accomplish the purposes of the coastal management program and the other provisions of this chapter, contract with any person and may accept and expend gifts, bequests, and grants of money or property from any person.

(B) Every agency of the state, upon request of the director, shall cooperate with the department of natural resources in the implementation of the coastal management program.

(C) The director shall establish a coastal management assistance grant program. Grants may be awarded from federal funds received for that purpose and from such other funds as may be provided by law to any municipal corporation, county, township, park district created under section 511.18 or 1545.04 of the Revised Code, conservancy district established under Chapter 6101. of the Revised Code, port authority, other political subdivision, state agency, educational institution, or nonprofit corporation ~~that is located in whole or in part in the coastal area~~ to help implement, administer, or enforce any aspect of the coastal management program. Grants may be used for any of the following purposes:

(1) Feasibility studies and engineering reports for projects that are consistent with the policies in the coastal management program document;

(2) The protection and preservation of wetlands, beaches, fish and wildlife habitats, minerals, natural areas, prime agricultural land, endangered plant and animal species, or other significant natural coastal resources;

(3) The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal;

(4) Increasing public access to Lake Erie and other public places in the coastal area;

(5) The protection and preservation of historical, cultural, or aesthetic coastal resources;

(6) Improving the predictability and efficiency of governmental decision making related to coastal area management;

(7) Adopting, administering, and enforcing zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas;

(8) The redevelopment of deteriorating and underutilized waterfronts and ports;

(9) Other purposes approved by the director.

Sec. 1506.11. (A) "Territory," as used in this section, means the waters and the lands presently underlying the waters of Lake Erie and the lands formerly underlying the waters of Lake Erie and now artificially filled, between the natural shoreline and the international boundary line with Canada.

(B) Whenever the state, acting through the director of natural resources, upon application of any person who wants to develop or improve part of the territory, and after notice that the director, at the director's discretion, may give as provided in this section, determines that any part of the territory can be developed and improved or the waters thereof used as specified in the application without impairment of the public right of navigation, water commerce, and fishery, a lease of all or any part of the state's interest therein may be entered into with the applicant, or a permit may be issued for that purpose, subject to the powers of the United States government and in accordance with rules adopted by the director in accordance with Chapter 119. of the Revised Code, and without prejudice to the littoral rights of any owner of land fronting on Lake Erie, provided that the legislative authority of the municipal corporation within which any such part of the territory is located, if the municipal corporation is not within the jurisdiction of a port authority, or the county commissioners of the county within which such part

of the territory is located, excluding any territory within a municipal corporation or under the jurisdiction of a port authority, or the board of directors of a port authority with respect to such part of the territory included in the jurisdiction of the port authority, has enacted an ordinance or resolution finding and determining that such part of the territory, described by metes and bounds or by an alternate description referenced to the applicant's upland property description that is considered adequate by the director, is not necessary or required for the construction, maintenance, or operation by the municipal corporation, county, or port authority of breakwaters, piers, docks, wharves, bulkheads, connecting ways, water terminal facilities, and improvements and marginal highways in aid of navigation and water commerce and that the land uses specified in the application comply with regulation of permissible land use under a waterfront plan of the local authority.

(C) Upon the filing of the application with the director, the director may hold a public hearing thereon and ~~shall~~ may cause written notice of the filing to be given to any municipal corporation, county, or port authority, as the case may be, in which such part of the territory is located and also shall cause public notice of the filing to be given by advertisement in a newspaper of general circulation within the locality where such part of the territory is located. If a hearing is to be held, public notice of the filing may be combined with public notice of the hearing and shall be given once a week for four consecutive weeks prior to the date of the initial hearing. All hearings shall be before the director and shall be open to the public, and a record shall be made of the proceeding. Parties thereto are entitled to be heard and to be represented by counsel. The findings and order of the director shall be in writing. All costs of the hearings, including publication costs, shall be paid by the applicant. The director also may hold public meetings on the filing of an application.

If the director finds that a lease may properly be entered into with the applicant or a permit may properly be issued to the applicant, the director shall determine the consideration to be paid by the applicant, which consideration shall exclude the value of the littoral rights of the owner of land fronting on Lake Erie and improvements made or paid for by the owner of land fronting on Lake Erie or that owner's predecessors in title. The lease or permit may be for such periods of time as the director determines. The rentals received under the terms of such a lease or permit shall be paid into the state treasury to the credit of the Lake Erie submerged lands fund, which is hereby created, and shall be distributed from that fund as follows:

- (1) Fifty per cent of each rental shall be paid to the department of

natural resources for the administration of this section and section 1506.10 of the Revised Code and for the coastal management assistance grant program required to be established under division (C) of section 1506.02 of the Revised Code;

(2) Fifty per cent of each rental shall be paid to the municipal corporation, county, or port authority making the finding provided for in this section.

All leases and permits shall be executed in the manner provided by section 5501.01 of the Revised Code and shall contain, in addition to the provisions required in this section, a reservation to the state of all mineral rights and a provision that the removal of any minerals shall be conducted in such manner as not to damage any improvements placed by the littoral owner, lessee, or permit holder on the lands. No lease or permit of the lands defined in this section shall express or imply any control of fisheries or aquatic wildlife now vested in the division of wildlife of the department.

(D) Upland owners who, prior to October 13, 1955, have erected, developed, or maintained structures, facilities, buildings, or improvements or made use of waters in the part of the territory in front of those uplands shall be granted a lease or permit by the state upon the presentation of a certification by the chief executive of a municipal corporation, resolution of the board of county commissioners, or resolution of the board of directors of the port authority establishing that the structures, facilities, buildings, improvements, or uses do not constitute an unlawful encroachment on navigation and water commerce. The lease or permit shall specifically enumerate the structures, facilities, buildings, improvements, or uses so included.

(E) Persons having secured a lease or permit under this section are entitled to just compensation for the taking, whether for navigation, water commerce, or otherwise, by any governmental authority having the power of eminent domain, of structures, facilities, buildings, improvements, or uses erected or placed upon the territory pursuant to the lease or permit or the littoral rights of the person and for the taking of the leasehold and the littoral rights of the person pursuant to the procedure provided in Chapter 163. of the Revised Code. The compensation shall not include any compensation for the site in the territory except to the extent of any interest in the site theretofore acquired by the person under this section or by prior acts of the general assembly or grants from the United States government. The failure of any person to apply for or obtain a lease or permit under this section does not prejudice any right the person may have to compensation for a taking of littoral rights or of improvements made in accordance with a lease, a permit,

or littoral rights.

(F) If any taxes or assessments are levied or assessed upon property that is the subject of a lease or permit under this section, the taxes or assessments are the obligation of the lessee or permit holder.

(G) If a lease or permit secured under this section requires the lessee or permit holder to obtain the approval of the department or any of its divisions for any changes in structures, facilities, or buildings, for any improvements, or for any changes or expansion in uses, no lessee or permit holder shall change any structures, facilities, or buildings, make any improvements, or expand or change any uses unless the director first determines that the proposed action will not adversely affect any current or prospective exercise of the public right of recreation in the territory and in the state's reversionary interest in any territory leased or permitted under this section.

Proposed changes or improvements shall be deemed to "adversely affect" the public right of recreation if the changes or improvements cause or will cause any significant demonstrable negative impact upon any present or prospective recreational use of the territory by the public during the term of the lease or permit or any renewals and of any public recreational use of the leased or permitted premises in which the state has a reversionary interest.

Sec. 1507.05. All moneys derived from the granting of permits and leases under section 1505.07 of the Revised Code for the removal of sand, gravel, stone, gas, oil, and other minerals and substances from and under the bed of Lake Erie and from applications for construction permits submitted under section 1507.04 of the Revised Code shall be paid into the state treasury to the credit of the permit and lease fund, which is hereby created. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under ~~sections~~ division (A) of section 1505.99 and section 1507.99 of the Revised Code shall be paid into that fund. The fund shall be administered by the department of natural resources for the protection of Lake Erie shores and waters; investigation and prevention of erosion; the planning, development, and construction of facilities for recreational use of Lake Erie; implementation of section 1507.04 of the Revised Code; preparation of the state shore erosion plan under section 1507.10 of the Revised Code; and state administration of Lake Erie coastal erosion areas under sections 1506.06 and 1506.07 of the Revised Code.

Sec. 1509.01. As used in this chapter:

(A) "Well" means any borehole, whether drilled or bored, within the state; for production, extraction, or injection of any gas or liquid mineral,

excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

(B) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include hydrocarbons that were originally in a gaseous phase in the reservoir.

(C) "Gas" means all natural gas and all other fluid hydrocarbons that are not defined above as oil, including condensate.

(D) "Condensate" means liquid hydrocarbons that were originally in the gaseous phase in the reservoir.

(E) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both, but does not include a gas storage reservoir. Each zone of a geological structure that is completely separated from any other zone in the same structure may contain a separate pool.

(F) "Field" means the general area overlaid by one or more pools.

(G) "Drilling unit" means the minimum acreage on which one well may be drilled, but does not apply to a well for injecting gas into or removing gas from a gas storage reservoir.

(H) "Waste" includes all of the following:

(1) Physical waste, as ~~such~~ that term is generally is understood in the oil and gas industry;

(2) Inefficient, excessive, or improper use, or the unnecessary dissipation ~~of~~, of reservoir energy;

(3) Inefficient storing of oil or gas;

(4) Locating, drilling, equipping, operating, or producing an oil or gas well in a manner that reduces or tends to reduce the quantity of oil or gas ultimately recoverable under prudent and proper operations from the pool into which it is drilled; or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.

(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under ~~his~~ the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.

(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.

(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit ~~and~~, to drill into and produce from a pool, and to appropriate the oil or gas ~~that he produces~~ produced therefrom

either for ~~himself~~ the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter.

(L) "Royalty interest" means the fee holder's interest share in the production from a well, ~~usually one-eighth of the gross production.~~

(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.

(N) "Prepared clay" means a clay ~~which~~ that is plastic and is thoroughly saturated with fresh water to a weight and consistency great enough to settle through saltwater in the well in which it is to be used, except as otherwise approved by the chief of the division of oil and gas.

(O) "Rock sediment" means the combined cutting and residue from drilling sedimentary rocks and formation.

(P) "Excavations and workings," "mine," and "pillar" have the ~~meaning set forth~~ same meanings as in section 1561.01 of the Revised Code.

(Q) "Coal bearing township" means a township designated as such by the chief of the division of mines and reclamation under section 1561.06 of the Revised Code.

(R) "Gas storage reservoir" means a continuous area of a subterranean porous sand or rock stratum or strata into which gas is or may be injected for the purpose of storing it therein and removing it therefrom, and includes a gas storage reservoir as defined in ~~division (A) of~~ section 1571.01 of the Revised Code.

(S) "Safe Drinking Water Act" means the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), ~~and any amendments thereto as amended by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 300(f), and regulations adopted under those acts.~~

(T) "Person" includes any political subdivision, department, agency, or instrumentality of this state; the United States and any department, agency, or instrumentality thereof; and any legal entity defined as a person under section 1.59 of the Revised Code.

(U) "Brine" means all saline geological formation water resulting from, obtained from, or produced in connection with the exploration, drilling, or production of oil or gas.

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and

other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters.

(W) "Exempt Mississippian well" means a well that meets all of the following criteria:

(1) Was drilled and completed before January 1, 1980;

(2) Is located in an unglaciated part of the state;

(3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy; ~~and~~

(4) Is used primarily to provide oil or gas for domestic use.

(X) "Exempt domestic well" means a well that meets all of the following criteria:

(1) Is owned by the owner of the surface estate of the tract on which the well is located;

(2) Is used primarily to provide gas for the owner's domestic use;

(3) Is located more than two hundred feet horizontal distance from any inhabited private dwelling house; other than an inhabited private dwelling house located on the tract on which the well is located;

(4) Is located more than two hundred feet horizontal distance from any public building that may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic, or occupancy by the public.

Sec. 1509.06. An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply shall be filed with the chief of the division of oil and gas upon such form as the chief prescribes and shall contain each of the following that is applicable:

(A) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(B) The signature of the owner or ~~his~~ the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of ~~his~~ the appointment as such agent.

(C) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;

(D) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township,

and county;

(E) Designation of the well by name and number;

(F) The geological formation to be tested or used and the proposed total depth of the well;

(G) The type of drilling equipment to be used;

~~(H) The name and address of the corporate surety and the identifying number of the bond;~~

~~(I) The plan for the storage and disposal of brine and other waste substances resulting from, obtained from, or produced in connection with exploration, drilling, or production of oil or gas. The plan shall provide for compliance with sections 1509.22 to 1509.226 of the Revised Code.~~

~~(J)~~ If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;

~~(K)~~(I) A sworn statement that all requirements of any municipal corporation, county, or township having jurisdiction over any activity related to the drilling or operation of an oil or gas well that have been filed with the division of oil and gas and are in effect at the time the application is filed, including, but not limited to, zoning ordinances and resolutions and the requirements of section 4513.34 of the Revised Code, will be complied with until abandonment of the well;

~~(L)~~(J) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.

~~(M)~~(K) A description by name or number of the county, township, and municipal corporation roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site;

~~(N)~~(L) Such other relevant information as the chief prescribes by rule.

Each application shall be accompanied by a map, on a scale not smaller than four hundred feet to the inch, prepared by an Ohio registered surveyor, showing the location of the well and containing such other data as may be prescribed by the chief. If the well is or is to be located within the excavations and workings of a mine, the map also shall include the location of the mine, the name of the mine, and the name of the person operating the mine.

The chief shall cause a copy of the weekly circular prepared by the division ~~of oil and gas~~ to be provided to the county engineer of each county that contains active or proposed drilling activity. The weekly circular shall contain, in the manner prescribed by the chief, the names of all applicants

for permits, the location of each well or proposed well, the information required by division ~~(M)~~(K) of this section, and any additional information the chief prescribes.

The chief shall not issue a permit for at least ten days after the date of filing of the application for the permit unless, upon reasonable cause shown, ~~he~~ the chief waives that period or a request for expedited review is filed under this section. However, the chief shall issue a permit within twenty-one days of the filing of the application unless ~~he~~ the chief denies the application by order.

An applicant may file a request with the chief for expedited review of ~~his~~ a permit application if the well is not or is not to be located in a gas storage reservoir or reservoir protective area, as "reservoir protective area" is defined in section 1571.01 of the Revised Code. If the well is or is to be located in a coal bearing township, the application shall be accompanied by the affidavit of the landowner prescribed in section 1509.08 of the Revised Code. ~~On the first business day of each week, the chief shall issue a policy memorandum indicating the number of requests for expedited review that he will accept for review during the week immediately following the week in which the policy memorandum is issued. The chief shall make each policy memorandum available to the public.~~

In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, a request for expedited review shall be accompanied by a separate nonrefundable filing fee of five hundred dollars. Upon the filing of a request for expedited review, the chief shall cause the chief of the division of mines and reclamation and the county engineer of the county in which the well is or is to be located to be notified of the filing of the permit application and the request for expedited review by telephone or ~~such~~ other means ~~as that~~ in the judgment of the chief ~~would~~ will provide timely notice of the application and request. ~~When a request for expedited review is filed, the chief immediately shall begin to process the application, but shall not issue the permit for at least five days after the date of the filing of the request. The chief shall issue a permit within seven days of the filing of the request unless he the chief denies the application by order. Notwithstanding the provisions of this section governing expedited review of permit applications, the chief may refuse to accept requests for expedited review if, in his the chief's judgment, the acceptance of the requests would prevent the issuance, within twenty-one days of their filing, of permits for which applications are pending.~~

A well shall be drilled and operated in accordance with the plans, sworn

statements, and other information submitted in the approved application.

The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted ~~thereunder~~ under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions.

Each application for a permit required by section 1509.05 of the Revised Code, except an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee of two hundred fifty dollars.

The chief may order the immediate suspension of drilling, operating, or plugging activities ~~if he finds~~ after finding that any person is causing, engaging in, or maintaining a condition or activity ~~which~~ that in his the chief's judgment presents an imminent danger to public health or safety or results in or is likely to result in immediate substantial damage to natural resources or for nonpayment of the fee required by this section. The chief may order the immediate suspension of the drilling or reopening of a well ~~if he is~~ after being so requested by the chief of the division of mines and reclamation under section 1509.08 of the Revised Code. Before issuing any such order, the chief shall notify the owner in such manner as in the chief's judgment would provide reasonable notification that ~~he~~ the chief intends to issue a suspension order. The chief may issue such an order without prior notification if reasonable attempts to notify the owner have failed, but in such an event notification shall be given as soon thereafter as practical. Within five calendar days after the issuance of the order, the chief shall provide the owner an opportunity to be heard and to present evidence that the condition or activity is not likely to result in immediate substantial damage to natural resources or does not present an imminent danger to public health or safety. Notwithstanding any provision of this chapter, the owner may appeal the order directly to the court of common pleas of the county in which the activity is located.

Sec. 1509.07. An owner of any well, except an exempt Mississippian well or an exempt domestic well, shall ~~file with the division of oil and gas a certificate issued by an insurance company authorized to do business in this state certifying that the owner has in force~~ obtain liability insurance coverage from a company authorized to do business in this state in an amount of not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to

pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in this state. The owner shall maintain that coverage until all ~~his~~ the owner's wells are plugged and abandoned as required by law. ~~The policy or policies providing that coverage~~ owner shall require the provide proof of liability insurance company to give notice coverage to the chief of the division of oil and gas if the policy or policies lapse for any reason upon request. Upon ~~any such termination of coverage~~ failure of the owner to provide that proof when requested, the chief may order the suspension of any outstanding permits and operations of the owner until the owner ~~obtains~~ provides proof of the required insurance coverage.

~~An~~ Except as otherwise provided in this section, an owner of any well, before being issued a permit under section 1509.06 of the Revised Code, shall execute and file with the division of oil and gas a surety bond conditioned on compliance with the restoration requirements of section 1509.072, the plugging requirements of section 1509.12, the permit provisions of section 1509.13 of the Revised Code, and all rules and orders of the chief relating thereto, in an amount set by rule of the chief.

The owner may deposit with the chief, instead of a surety bond, cash in an amount equal to the surety bond as prescribed ~~in~~ pursuant to this section or negotiable certificates of deposit or irrevocable letters of credit, issued by any bank organized or transacting business in this state or by any savings and loan association as defined in section 1151.01 of the Revised Code, having a cash value equal to or greater than the amount of the surety bond as prescribed ~~in~~ pursuant to this section. Cash or certificates of deposit shall be deposited upon the same terms as those upon which surety bonds may be deposited. If certificates of deposit are deposited with the chief instead of a surety bond, ~~he~~ the chief shall require the bank or savings and loan association that issued any such certificate to pledge securities of a cash value equal to the amount of the certificate that is in excess of the amount insured by any of the agencies and instrumentalities created under the "Federal Deposit Insurance Act," 64 Stat. 873 (1950), 12 U.S.C. 1811, as amended, and regulations adopted under it, including at least the federal deposit insurance corporation, bank insurance fund, and savings association insurance fund. The securities shall be security for the repayment of the certificate of deposit.

Immediately upon a deposit of cash, certificates of deposit, or letters of credit with the chief, ~~he~~ the chief shall deliver them to the treasurer of state who shall hold them in trust for the purposes for which they have been deposited.

Instead of a surety bond, the chief may accept proof of financial responsibility consisting of a sworn financial statement showing a net financial worth within this state equal to twice the amount of the bond for which it substitutes and, as may be required by the chief, a list of producing properties of the owner within this state or ~~such~~ other evidence showing ability and intent to comply with the law and rules concerning restoration and plugging ~~as~~ that may be required by rule of the chief. The owner of an exempt domestic or exempt Mississippian well is not required to file scheduled updates of the financial documents, but shall file updates of those documents if requested to do so by the chief. The owner of a nonexempt domestic or nonexempt Mississippian well shall file updates of the financial documents in accordance with a schedule established by rule of the chief. The chief ~~may require at any time updating of the documents filed and~~, upon determining that an owner for whom the chief has accepted proof of financial responsibility instead of bond cannot demonstrate financial responsibility, shall order that the owner execute and file a bond or deposit cash, certificates of deposit, or irrevocable letters of credit as required by this section for the wells specified in the order within ten days of receipt of the order. If the order is not complied with, all wells of the owner that are specified in the order and for which no bond is filed or cash, certificates of deposit, or letters of credit are deposited shall be plugged. No owner shall fail or refuse to plug such a well. Each day on which such a well remains unplugged thereafter constitutes a separate offense.

The surety bond provided for in this section shall be executed by a surety company authorized to do business in this state.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by ~~his~~ the principal's or surety's attorney in fact, with a certified copy of the power of attorney attached thereto. The chief shall not approve a bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

All bonds shall be given in a form to be prescribed by the chief and shall run to the state as obligee.

An owner of an exempt Mississippian well or an exempt domestic well, in lieu of filing a surety bond, cash in an amount equal to the surety bond, certificates of deposit, irrevocable letters of credit, or a sworn financial statement, may file a one-time fee of fifty dollars, which shall be deposited in the oil and gas well plugging fund created in section 1509.071 of the Revised Code.

Sec. 1509.071. (A) When the chief of the division of oil and gas finds

that an owner has failed to comply with the restoration requirements of section 1509.072, plugging requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount ~~thereof~~ of the forfeiture.

In lieu of total forfeiture, the surety, at its option, may cause the well to be properly plugged and abandoned and the area properly restored or pay to the treasurer of state the cost ~~thereof~~ of plugging and abandonment.

(B) All moneys collected ~~on account~~ because of forfeitures of bonds as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well plugging fund, which is hereby created. The fund shall be expended by the chief for the following purposes:

(1) In accordance with division (D) of this section, to plug wells or to restore the land surface properly as required in section 1509.072 of the Revised Code for which ~~such the~~ bonds have been forfeited, for abandoned wells for which no funds are available to plug ~~such the~~ wells in accordance with this chapter, or to use abandoned wells for the injection of oil or gas production wastes;

(2) In accordance with division (E) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks.

Expenditures from the fund shall be made only for lawful purposes.

(C)(1) Upon determining that the owner of a well has failed to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner

of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate.

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures from the fund for the purpose of division (B)(1) of this section shall be made in accordance with either of the following:

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. Agents or employees of persons contracting with the chief for the restoration, plugging, and injection projects may enter upon any land, public or private, for which a project has been approved by the controlling board and on which the well is located, for the purpose of performing the work. Prior to such entry, the chief shall give to the following persons written notice of the existence of a contract for a project to restore, plug, or inject oil or gas production wastes into a well, the names of the persons with whom the contract is made, and the date that the project will commence: the owner of the well, the owner of the land upon which the well is located, the owner or agents of adjoining land, and, if the well is located in the same township as or in a township adjacent to the excavations and workings of a mine and the owner or lessee of that mine has provided written notice identifying those townships to the chief at any time during the immediately preceding three years, the owner or lessee of the mine.

The chief periodically shall submit project proposals under division (D)(1) of this section to the controlling board, together with benefit and cost data and other pertinent information. Expenditures from the fund for the purpose of division (D)(1) of this section may be made only for restoration, plugging, or injection projects that are approved by the controlling board, and expenditures for a particular project may not exceed any limits set by

the board.

(2)(a) The owner of the land on which a well is located who has received notice under division (C)(1)(b) of this section may plug the well and be reimbursed by the division for the reasonable cost of plugging the well. In order to plug the well, the landowner shall submit an application to the chief on a form prescribed by the chief and approved by the technical advisory council on oil and gas created in section 1509.38 of the Revised Code. The application, at a minimum, shall require the landowner to provide the same information as is required to be included in the application for a permit to plug and abandon under section 1509.13 of the Revised Code. The application shall be accompanied by a copy of a proposed contract to plug the well prepared by a contractor regularly engaged in the business of plugging oil and gas wells. The proposed contract shall require the contractor to furnish all of the materials, equipment, work, and labor necessary to ~~properly~~ plug the well properly and shall specify the price for doing the work, including a credit for the equipment appurtenant to the well that was forfeited to the state through the operation of division (C)(2) of this section. The application also shall be accompanied by the permit fee required by section 1509.13 of the Revised Code unless the chief, in the chief's discretion, waives payment of the permit fee. If the chief waives payment of the permit fee in connection with an application, the chief shall certify the amount of the fee to the director of budget and management for transfer from the oil and gas well plugging fund to the oil and gas permit fund created in section 1509.02 of the Revised Code. The application constitutes an application for a permit to plug and abandon the well for the purposes of section 1509.13 of the Revised Code.

(b) Within thirty days after receiving an application and accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable

requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, arms length contract.

(c) After receiving the chief's notice of the approval of the application and permit to plug and abandon a well under division (D)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well. The plugging shall be completed within one hundred eight days after the landowner receives the notice of approval and permit.

(d) Upon determining that the plugging has been completed within the time required by division (D)(2)(c) of this section and has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging; as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well plugging fund. If the chief determines that the plugging was not completed within the required time or was not completed in accordance with the applicable requirements, the chief shall not reimburse the landowner for the cost of the plugging, and the landowner or the contractor, as applicable, promptly shall transfer back to this state title to and possession of the equipment appurtenant to the well that previously was transferred to the landowner under division (D)(2)(b) of this section. If any such equipment was removed from the well during the plugging and sold, the landowner shall pay to the chief the proceeds from the sale of the equipment, and the chief promptly shall pay the moneys so received to the treasurer of state for deposit into the oil and gas well plugging fund.

The chief may establish an annual limit on the number of wells that may be plugged under division (D)(2) of this section or an annual limit on the expenditures to be made under that division.

As used in division (D)(2) of this section, "plug" and "plugging" include the plugging of the well and the restoration of the land surface disturbed by the plugging.

(E) Expenditures from the fund for the purpose of division (B)(2) of this section may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. The competitive bidding requirements of Chapter 153. of the Revised Code do not apply if the chief reasonably determines that correction of the applicable health or safety risk requires immediate action. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under

this division may enter upon any land, public or private, for the purpose of performing the work.

(F) Contracts entered into by the chief under this section are not subject to either of the following:

(1) Chapter 4115. of the Revised Code;

(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract.

(G) The owner of land on which a well is located who has received notice under division (C)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the landowner's filing the appropriate forms required under this chapter and providing to the chief sufficient information to demonstrate the landowner's or owner's right to produce a formation or formations. That information may include a deed, a lease, or other documentation of ownership or property rights.

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

Sec. 1509.072. No oil or gas well owner or ~~his~~ agent of an oil or gas well owner shall fail to restore the land surface within the area disturbed in siting, drilling, completing, and producing the well as required in this section.

(A) Within five months after the date upon which the surface drilling of a well is commenced, the owner or ~~his~~ the owner's agent ~~shall~~, in accordance with ~~his~~ the restoration plan filed under division ~~(L)~~(J) of section 1509.06 of the Revised Code, shall fill all the pits for containing brine, other waste substances resulting, obtained, or produced in connection with

exploration; ~~or~~ drilling ~~for~~, or production of, oil or gas, or oil that are not required by other state or federal law or regulation, and remove all concrete bases, drilling supplies, and drilling equipment. Within nine months after the date upon which the surface drilling of a well is commenced, the owner or ~~his~~ the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed that is not required in production of the well; where necessary to bind the soil and prevent substantial erosion and sedimentation. If the chief of the division of oil and gas finds that a pit used for containing brine, other waste substances, or oil is in violation of section 1509.22 of the Revised Code or rules adopted or orders issued ~~thereunder~~ under it, the chief may require the pit to be emptied and closed before expiration of the five-month restoration period.

(B) Within six months after a well that has produced oil or gas is plugged, or after the plugging of a dry hole, the owner or ~~his~~ the owner's agent shall remove all production and storage structures, supplies, and equipment, and any oil, salt water, and debris, and fill any remaining excavations. Within ~~such~~ that period the owner or ~~his~~ the owner's agent shall grade or terrace and plant, seed, or sod the area disturbed; where necessary to bind the soil and prevent substantial erosion and sedimentation.

The owner shall be released from responsibility to perform any or all restoration requirements of this section on any part or all of the area disturbed; upon the filing of a request for a waiver with and obtaining the written approval of the chief, which request shall be signed by the surface owner to certify the approval of the surface owner of the release sought. The chief shall approve ~~such~~ the request unless ~~he~~ the chief finds upon inspection that the waiver would be likely to result in substantial damage to adjoining property, substantial contamination of surface or underground water, or substantial erosion or sedimentation.

The chief ~~may~~, by order, may shorten the time periods provided for under division (A) or (B) of this section if failure to shorten the periods would be likely to result in damage to public health or the waters or natural resources of the state.

The chief ~~may~~, upon written application by an owner or ~~his~~ an owner's agent showing reasonable cause, may extend the period within which restoration shall be completed under divisions (A) and (B) of this section, but not to exceed a further six-month period, except under extraordinarily adverse weather conditions or when essential equipment, fuel, or labor is unavailable to the owner or ~~his~~ the owner's agent.

If the chief refuses to approve a request for waiver or extension, ~~he~~ the chief shall do so by order.

Sec. 1509.13. No person shall plug and abandon a well without having a permit to do so issued by the chief of the division of oil and gas. The permit shall be issued by the chief in accordance with this chapter, and the chief may ~~by rule~~ establish by rule a period of time from date of issue during which permits will be valid. Application by the owner for a permit to plug and abandon shall be filed as many days in advance as will be necessary for an oil and gas well inspector or, if the well is located in a coal bearing township, the gas storage well inspector or a deputy mine inspector to be present at the plugging. The application shall be filed with the chief ~~of the division of oil and gas~~ upon ~~such a~~ form as that the chief prescribes and shall contain the following information:

(A) The name and address of the owner;

(B) The signature of the owner or ~~his~~ the owner's authorized agent.

When an authorized agent signs an application, it shall be accompanied by a certified copy of ~~his~~ the appointment as ~~such~~ that agent.

(C) The location of the well identified by section or lot number, city, village, township, and county;

(D) Designation of well by name and number;

(E) The total depth of the well to be plugged;

(F) The date and amount of last production from the well;

(G) ~~Such other~~ Other data as that the chief may require.

If oil or gas has been produced from the well, the application shall be accompanied by a fee of fifty dollars. If a new dry well has been drilled in accordance with law and the permit is still valid, the permit holder may receive approval to plug the well from an oil and gas well inspector or, if the well is located in a coal bearing township, the gas storage well inspector or a deputy mine inspector so that the well can be plugged and abandoned without undue delay. No well located outside a coal bearing township shall be plugged and abandoned without an oil and gas well inspector present unless permission has been granted by the chief of the division of oil and gas, and no well located within a coal bearing township shall be plugged and abandoned without the gas storage well inspector or a deputy mine inspector present unless permission has been granted by the chief of the division of mines and reclamation. The owner of the well shall give written notice at the same time to the owner of the land upon which the well is located, the owners or agents of adjoining land, adjoining well owners or agents, and, if the well penetrates or passes within one hundred feet of the excavations and workings of a mine, the owner or lessee of that mine, of ~~his~~ the well owner's intention to abandon the well and of the time when ~~he~~ the well owner will be prepared to commence plugging it.

An applicant may file a request with the chief of the division of oil and gas for expedited review of an application for a permit to plug and abandon a well. The chief ~~shall~~ may refuse to accept a request for expedited review ~~after three such requests have been filed in a week, and shall not accept more than one request from the same applicant in any week~~ if, in the chief's judgment, acceptance of the request will prevent the issuance, within twenty-one days of filing, of permits for which applications filed under section 1509.06 Of the Revised Code are pending. In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, if applicable, a request shall be accompanied by a nonrefundable filing fee of two hundred fifty dollars unless the chief has ordered the applicant to plug and abandon the well. When a request for expedited review is filed, the chief shall immediately begin to process the application and shall issue a permit within seven days of the filing of the request unless ~~he~~ the chief, by order, denies the application.

Upon filing of an application for a permit to plug and abandon a well that is located in a coal bearing township, the chief shall cause the chief of the division of mines and reclamation to be notified of the filing of the permit application by telephone or ~~such~~ other means as that in the judgment of the chief would provide timely notice of the application.

This section does not apply to a well plugged or abandoned in compliance with section 1571.05 of the Revised Code.

Sec. 1509.14. Any person who abandons a well, when written permission has been granted by the chief of the division of oil and gas or the chief of the division of mines and reclamation to abandon and plug ~~such~~ the well without an inspector being present to supervise the plugging, shall make a written report of ~~such~~ the abandonment to the chief ~~who~~ of the division of oil and gas regardless of which chief granted such permission for the abandonment. The report shall be submitted to the chief of the division of oil and gas not later than thirty days after the date of abandonment and shall include all of the following:

- (A) The date of abandonment;
- (B) The name of the owner or operator of ~~his~~ the well at the time of abandonment and ~~his~~ the post-office address of the owner or operator;
- (C) The location of ~~such~~ the well as to township and county and the name of the owner of the surface upon which ~~such~~ the well is drilled, with the address thereof;
- (D) The date of the permit to drill;
- (E) The date when drilled;

(F) ~~Whether such well has been mapped;~~
(G) The depth of the well;
(H)(G) The depth of the top of the formation to which the well was drilled;

(H)(H) The depth of each seam of coal drilled through;

(I)(I) A detailed report as to how ~~such the~~ well was plugged, giving in particular the manner in which the coal and various formations were plugged, and the date of the plugging of ~~such the~~ well, including ~~therein~~ the names of those who witnessed the plugging of the well.

~~Such~~ The report shall be signed by the owner or operator, or the agent thereof of the owner or operator, who abandons and plugs ~~such the~~ well and verified by the oath of the party so signing. For the purposes of this section, the oil and gas well inspectors, gas storage well inspectors, or deputy mine inspectors may take acknowledgments and administer oaths to the parties signing ~~such the~~ report.

Sec. 1509.22. (A) Except when acting in accordance with section 1509.226 of the Revised Code, no person shall place or cause to be placed brine in surface or ground water or in or on the land in such quantities or in such manner as actually causes or could reasonably be anticipated to cause either of the following:

(1) Water used for consumption by humans or domestic animals to exceed the standards of the "Safe Drinking Water Act"; ~~or~~

(2) Damage or injury to public health or safety or the environment.

(B) No person shall store or dispose of brine in violation of a plan approved under ~~division (I) of section 1509.06 of the Revised Code,~~ division (A) of section 1509.222 ~~of the Revised Code,~~ or section 1509.226 of the Revised Code, in violation of a resolution submitted under section 1509.226 of the Revised Code, or in violation of rules or orders applicable to ~~such those~~ plans or resolutions.

(C) The chief of the division of oil and gas shall adopt rules and issue orders regarding storage and disposal of brine and other waste substances; however, the storage and disposal of brine and the chief's rules relating ~~thereto to storage and disposal~~ are subject to all of the following standards:

(1) Brine from any well except an exempt Mississippian well shall ~~only~~ be disposed of only by injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section; by surface application in accordance with section 1509.226 of the Revised Code; in association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code; or by other methods approved by the chief for testing or implementing a new

technology or method of disposal. Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.

(2) Muds, cuttings, and other waste substances shall not be disposed of in violation of any rule;

(3) Pits may be used for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, fracturing, reworking, reconditioning, plugging back, or plugging operations, but ~~such~~ the pits shall be constructed and maintained to prevent the escape of brine and ~~such other waste~~ substances. A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of brine, and the reservoir within such a dike or pit shall be kept reasonably free of brine and other waste substances.

(4) Earthen impoundments constructed pursuant to the division's specifications may be used for the temporary storage of brine and other waste substances in association with a saltwater injection well, an enhanced recovery project, or a solution mining project;

(5) No pit, earthen impoundment, or dike shall be used for the temporary storage of brine except in accordance with divisions (C)(3) and (4) of this section; ~~and~~

(6) No pit or dike shall be used for the ultimate disposal of brine.

(D) No person ~~shall~~, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation; unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one hundred dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production. The rules shall include provisions regarding applications for and issuance of the permits required by this division; entry to conduct inspections and to examine and copy records to ascertain compliance with this division and rules, orders, and terms and conditions of permits adopted or issued thereunder ~~under it~~; the provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the "Safe Drinking Water Act." To implement the goals of the "Safe Drinking Water Act," ~~88 Stat. 1661, 42 U.S.C.A. 300(f), as amended,~~ the

chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production; unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. This division and rules, orders, and terms and conditions of permits adopted or issued thereunder under it shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act; unless essential to ensure that underground sources of drinking water will not be endangered.

(E) The owner holding a permit, or an assignee or transferee who has assumed the obligations and liabilities imposed by ~~Chapter 1509. of the Revised Code~~ this chapter and any rules adopted or orders issued ~~thereunder~~ under it pursuant to section 1509.31 of the Revised Code, and the operator of a well shall be liable for a violation of this section or any rules adopted or orders or terms or conditions of a permit issued under ~~this section~~ it.

(F) An owner shall replace the water supply of the holder of an interest in real property who obtains all or part of ~~his~~ the holder's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been substantially disrupted by contamination, diminution, or interruption proximately resulting from the owner's oil or gas operation, or the owner may elect to compensate the holder of the interest in real property for the difference between the fair market value of the interest before the damage occurred to the water supply and the fair market value after the damage occurred; if the cost of replacing the water supply exceeds this difference in fair market values. However, during the pendency of any order issued under this division, the owner shall obtain for the holder or shall reimburse the holder for the reasonable cost of obtaining a water supply from the time of the contamination, diminution, or interruption by the operation until the owner has complied with an order of the chief for compliance with this division or such an order has been revoked or otherwise becomes not effective. If the owner elects to pay the difference in fair market values, but the owner and the holder have not agreed on the difference within thirty days after the chief issues an order for compliance with this division, ~~then~~ within ten days after the expiration of ~~this~~ that thirty-day period, the owner and the chief ~~shall~~ each shall appoint an appraiser to determine the difference in fair market

values, except that the holder of the interest in real property may elect to appoint and compensate ~~his~~ the holder's own appraiser, in which case the chief shall not appoint an appraiser. The two appraisers appointed shall appoint a third appraiser, and within thirty days after the appointment of the third appraiser, the three appraisers shall hold a hearing to determine the difference in fair market values. Within ten days after the hearing, the appraisers shall make their determination by majority vote and issue their final determination of the difference in fair market values. The chief shall accept a determination of the difference in fair market values made by agreement of the owner and holder or by appraisers under this division and shall make and dissolve orders accordingly. This division does not affect in any way the right of any person to enforce or protect, under applicable law, ~~his~~ the person's interest in water resources affected by an oil or gas operation.

(G) In any action brought by the state for a violation of division (A) of this section involving any well at which annular disposal is used, there shall be a rebuttable presumption available to the state that the annular disposal caused the violation if the well is located within a one-quarter mile radius of the site of the violation.

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 of the Revised Code, no person shall transport brine by vehicle in this state unless the business entity that employs the person first registers with and obtains a registration certificate and identification number from the chief of the division of oil and gas.

(2) No more than one registration certificate shall be required of any business entity. Registration certificates issued under this section are not ~~transferable~~ TRANSFERABLE. An applicant shall file an application with the chief, containing such information in such form as the chief prescribes, but including a plan for disposal that provides for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported and that lists all disposal sites that the applicant intends to use, the bond required by section 1509.225 of the Revised Code, and a certificate issued by an insurance company authorized to do business in this state certifying that the applicant has in force a liability insurance policy in an amount not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to pay damages for injury to persons or property caused by the collecting, handling, transportation, or disposal of brine. The policy shall be maintained in effect during the term of the registration certificate. The policy or policies

g ~~such~~ the coverage shall require the insurance company to give notice to the chief if the policy or policies lapse for any reason. Upon such termination of the policy, the chief may suspend the registration certificate until proper insurance coverage is obtained. Each application for a registration certificate shall be accompanied by a nonrefundable fee of five hundred dollars.

(B) The chief shall issue an order denying an application for a registration certificate if the chief finds that either of the following applies:

(1) The applicant, at the time of applying for the registration certificate, has been found liable by a final nonappealable order of a court of competent jurisdiction for damage to streets, roads, highways, bridges, culverts, or drainways pursuant to section 4513.34 or 5577.12 of the Revised Code until the applicant provides the chief with evidence of compliance with the order;

(2) The applicant's plan for disposal does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported.

(C) No applicant shall attempt to circumvent division (B) of this section by applying for a registration certificate under a different name or business organization name, by transferring responsibility to another person or entity, or by any similar act.

(D) A registered transporter shall apply to revise a disposal plan under procedures that the chief shall prescribe by rule. However, at a minimum, an application for a revision shall list all sources and disposal sites of brine currently transported. ~~If the chief approves a revision of a plan under this division, the approval also constitutes approval of a revision of affected disposal plans required by division (I) of section 1509.06 of the Revised Code, except as the chief otherwise specifically provides in the order approving the revision.~~ The chief shall deny any application for a revision of a plan under this division if the chief finds that the proposed revised plan does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported. Approvals and denials of revisions shall be by order of the chief.

(E) The chief may adopt rules, issue orders, and attach terms and conditions to registration certificates as may be necessary to administer, implement, and enforce sections 1509.222 to 1509.226 of the Revised Code for protection of public health or safety or conservation of natural resources.

Sec. 1509.31. Whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor shall notify the holders of the royalty interests, and, if a well or wells exist on the lease, the

division of oil and gas, of the name and address of the assignee or transferee by certified mail, return receipt requested, not later than thirty days after the date of the assignment or transfer. When notice of any such assignment or transfer is required to be provided to the division, it shall be provided on a form prescribed and provided by the division and verified by both the assignor or transferor and by the assignee or transferee. The notice form applicable to assignments or transfers of a well to the owner of the surface estate of the tract on which the well is located shall contain a statement informing the landowner that the well may require periodic servicing to maintain its productivity; that, upon assignment or transfer of the well to ~~him~~ the landowner, the landowner becomes responsible for compliance with the requirements of this chapter and rules adopted under it, including, without limitation, the proper disposal of brine obtained from the well, the plugging of the well when it becomes incapable of producing oil or gas, and the restoration of the well site; and that, upon assignment or transfer of the well to ~~him~~ the landowner, the landowner becomes responsible for the costs of compliance with the requirements of this chapter and rules adopted under it and the costs for operating and servicing the well.

The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit adopted or issued thereunder ~~under it~~, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division ~~of oil and gas~~ the information described in divisions (A), (B), (C), (D), (E), ~~(H), (I), (J), (K), and (L)~~, (I), (J), (K), and (L), ~~(M), and (N)~~ of section 1509.06 of the Revised Code; ~~files or has filed the certificate of~~ obtains liability insurance coverage required by section 1509.07 of the Revised Code, except when none is required by that section; and executes and files a surety bond, negotiable certificates of deposit or irrevocable letters of credit, or cash, as described in ~~that~~ that section ~~1509.07 of the Revised Code~~. Instead of a bond, but only upon acceptance by the chief, the assignee or transferee may file proof of financial responsibility, described in section 1509.07 of the Revised Code. Section 1509.071 of the Revised Code applies to the surety bond, cash, and negotiable certificates of deposit and irrevocable letters of credit described in this section. Unless the chief approves a modification, each assignee or transferee shall operate in accordance with the plans and information filed by the permit holder pursuant to section 1509.06 of the Revised Code.

Sec. 1511.02. The chief of the division of soil and water conservation, subject to the approval of the director of natural resources, shall do all of the

following:

(A) Provide administrative leadership to local soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 1515. of the Revised Code;

(B) Administer this chapter and Chapter 1515. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other natural resource conservation works of improvement;

(D) Coordinate the development and implementation of cooperative programs and working agreements between local soil and water conservation districts and divisions or sections of the department of natural resources, or other agencies of local, state, and federal government;

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code. Rules adopted pursuant to this section:

(1) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in farming or silvicultural operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by animal waste or by soil sediment including substances attached thereto, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Shall establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for nonfarm commercial, industrial, residential, or other nonfarm purposes, and establish criteria for determination of the acceptability of such management and conservation practices. The standards shall be designed to implement applicable areawide waste treatment management plans prepared under section 208 of the "Federal Water Pollution Control Act," 86 Stat. 816 (1972), 33 U.S.C.A. 1288, as amended. The standards and criteria shall not apply in any municipal corporation or county that adopts ordinances or rules pertaining to sediment control, nor to lands being used in a strip mine operation as defined in section 1513.01 of the Revised Code, nor to lands

being used in a surface mining operation as defined in section 1514.01 of the Revised Code.

(3) May recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any grading, excavating, filling, or other whole or partial disturbance of five or more contiguous acres of land owned by one person or operated as one development unit and require implementation of such a plan. Areas of less than five contiguous acres are not exempt from compliance with other provisions of this chapter and rules adopted under them.

(4) Shall establish procedures for administration of rules for agricultural pollution abatement and urban sediment pollution abatement and for enforcement of rules for agricultural pollution abatement;

(5) Shall specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural or silvicultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by animal waste or soil sediment including pollutants attached thereto.

(6) Until June 1, 1996, shall specify the multiflora rose control practices eligible for state cost sharing, the conditions of eligibility for state cost sharing, the limits of cost sharing for those practices, specifications for carrying out those practices to ensure effective control of the multiflora rose and to safeguard the health and safety of human beings and domestic animals and the environment, and the contract provisions to be included in cost-sharing agreements with landowners;

(7) Until June 1, 1996, shall establish procedures for administering grants to soil and water conservation districts for control of multiflora rose;

(8) Shall establish procedures for administering grants to owners or operators of agricultural land or concentrated animal feeding operations for the implementation of operation and management plans;

(9) Shall establish procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs, specify the types of projects eligible for grants, establish limits on the availability of grants, and establish requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities;

(10) Shall do all of the following with regard to composting conducted

in conjunction with agricultural operations:

(a) Provide for the distribution of educational material concerning composting to the offices of the Ohio cooperative extension service for the purposes of section 1511.022 of the Revised Code;

(b) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the chief considers to be necessary or appropriate;

(c) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division ~~(F)~~(U) of section 1515.08 of the Revised Code.

(11) Shall be adopted, amended, or rescinded after the chief does all of the following:

(a) Mails notice to each statewide organization that ~~he~~ the chief determines represents persons or local governmental agencies who would be affected by the proposed rule, amendment thereto, or rescission thereof at least thirty-five days before any public hearing thereon;

(b) Mails a copy of each proposed rule, amendment thereto, or rescission thereof to any person who requests a copy, within five days after receipt of the request;

(c) Consults with appropriate state and local governmental agencies or their representatives, including statewide organizations of local governmental officials, industrial representatives, and other interested persons;

(d) If the rule relates to agricultural pollution abatement, develops an economic impact statement concerning the effect of the proposed rule or amendment.

(12) Shall not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted pursuant to this section ~~shall~~ does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations ~~shall create~~ creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(13) Insofar as the rules relate to urban sediment pollution, shall not be applicable in a municipal corporation or county that adopts ordinances or rules for urban sediment control, except that a municipal corporation or county that adopts such ordinances or rules may receive moneys for urban

sediment control that are disbursed by the board of supervisors of the applicable soil and water conservation district under division (R) of section 1515.08 of the Revised Code. The rules shall not exempt any person from compliance with municipal ordinances enacted pursuant to Section 3 of Article XVIII, Ohio Constitution.

(F) Cost share with landowners on practices established pursuant to division (E)(5) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the division.

(G) Issue orders requiring compliance with any rule adopted under division (E)(1) of this section or with section 1511.022 of the Revised Code. Before the chief issues an order, ~~he~~ the chief shall afford each person allegedly liable an adjudication hearing under Chapter 119. of the Revised Code. The chief may require in an order that a person who has caused agricultural pollution by failure to comply with the standards established under division (E)(1) of this section operate under an operation and management plan approved by the chief under this section. The chief shall require in an order that a person who has failed to comply with division (A) of section 1511.022 of the Revised Code prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of this section and operate in accordance with that plan or that a person who has failed to operate in accordance with such a plan begin to operate in accordance with it. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the standard that is not being met.

(H) Refrain from issuing any order requiring a pollution abatement practice that is eligible for cost sharing under division (E)(5) of this section unless public funds are available for cost sharing on those practices at not less than seventy-five per cent of the cost, but not more than fifteen thousand dollars per person per year for practices for abating agricultural pollution. The fifteen thousand dollar per person per year limit may be waived by majority vote of the Ohio soil and water conservation commission.

(I) Employ field assistants and such other employees as are necessary for the performance of the work prescribed by Chapter 1515. of the Revised Code, for performance of work of the division, and as agreed to under working agreements or contractual arrangements with local soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with such schedules as are provided by law for the compensation

of state employees.

All employees of the division, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of employment.

(J) In connection with new or relocated projects involving highways, underground cables, pipelines, railroads, and other improvements affecting soil and water resources, including surface and subsurface drainage:

(1) Provide engineering service as is mutually agreeable to the Ohio soil and water conservation commission and the director to aid in the design and installation of soil and water conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on which the projects are executed, local soil and water conservation districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;

(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.

(K) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;

(L) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(M) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be upon such terms as are mutually agreeable to the districts and the department of natural resources.

(N) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and

land management activities;

~~(O)~~

~~(P)~~

~~(Q)~~

~~(R)~~

~~(S)~~

~~(P)~~(O) When necessary for the purposes of this chapter or Chapter 1515. of the Revised Code, develop or approve operation and management plans.

This section does not restrict the excrement of domestic or farm animals defecated on land outside a concentrated animal feeding operation or runoff therefrom into the waters of the state.

Sec. 1511.022. (A) Any person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the following:

(1) Participate in an educational course concerning composting conducted by the Ohio cooperative extension service and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(10) of section 1511.02 of the Revised Code.

(B) Any person who fails to comply with division (A) of this section shall prepare and operate under a composting plan in accordance with an order issued by the chief of the division of soil and water conservation under division (H) of section 1511.02 of the Revised Code. If the person's proposed composting plan is disapproved by the board of supervisors of the appropriate soil and water conservation district under division ~~(T)~~(U)(3) of section 1515.08 of the Revised Code, the person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the disapproval, the plan shall be deemed approved.

Sec. 1513.02. (A) The division of mines and reclamation shall administer, enforce, and implement this chapter. The chief of the division of mines and reclamation shall do all of the following:

(1) Adopt, amend, and rescind rules:

(a) To administer and enforce this chapter;

(b) To implement the requirements of this chapter for the reclamation of lands affected by coal mining, including such rules governing mining practices and procedures, segregation and placement of soil and topsoil,

backfilling, grading, terracing, resoiling, soil conditioning and reconditioning, planting, establishment of drainage patterns, construction of impoundments, and the construction, maintenance, and disposition of haul roads, ditches, and dikes, as may be necessary or desirable, under varying conditions of slope, drainage, physical and chemical characteristics of soil and overburden, erodability of materials, season, growth characteristics of plants, and other factors affecting coal mining and reclamation, to facilitate the return of the land to a condition required by this chapter; to prevent pollution or substantial diminution of waters of the state, substantial erosion, substantial deposition of sediment, landslides, accumulation and discharge of acid water, and flooding, both during mining and reclamation and thereafter; to restore the recharge capacity of the mined area to approximate premining conditions; and to ensure full compliance with all requirements of this chapter relating to reclamation, and the attainment of those objectives in the interest of the public health, safety, and welfare to which these reclamation requirements are directed;

(c) To meet the requirements of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.

(2) Issue orders to enforce this chapter and rules adopted under it;

(3) Adopt rules for the internal management of the division that do not affect private rights;

(4) Adopt programs, rules, and procedures designed to assist the coal operator in this state with the permitting process and complying with the environmental standards of this chapter. Upon request of the applicant for a permit, the chief shall make a determination of the probable hydrologic consequences required in division (B)(2)(k) of section 1513.07 of the Revised Code within sixty days after a permit has been submitted to the division for those applications requesting the chief to perform the study. The chief shall perform the chemical analysis of test borings or core samplings for operators who have a total annual production of coal at all locations that does not exceed one hundred thousand tons.

(5) Adopt programs, rules, and procedures designed to ensure that reclamation is performed on operations for which the performance bond has been forfeited pursuant to section 1513.16 of the Revised Code. ~~For this purpose, the chief may transfer up to one million dollars annually from the coal mining administration and reclamation reserve fund, created in section 1513.181 of the Revised Code, to the reclamation supplemental forfeiture fund, created in section 1513.18 of the Revised Code.;~~

(6) Receive, administer, and expend moneys obtained from the United States department of the interior and other federal agencies to implement the

state's permanent coal regulatory program;

(7)(a) Regulate the beneficial use of coal combustion byproducts at coal mining and reclamation operations and abandoned mine lands that are regulated under this chapter and rules adopted under it. The beneficial use of coal combustion byproducts at such coal mining and reclamation operations and abandoned mine lands is subject to all applicable performance standards and requirements established under this chapter and rules adopted under it, including, without limitation, standards and requirements established under section 1513.16 of the Revised Code and rules adopted pursuant to it.

The beneficial use of coal combustion byproducts that is authorized at coal mining and reclamation operations and abandoned mine lands that are regulated under this chapter and rules adopted under it is not subject to the following provisions of Chapters 3734. and 6111. of the Revised Code and rules adopted under those provisions:

(i) Permit and license requirements for solid waste facilities established under sections 3734.02 and 3734.05 of the Revised Code;

(ii) The prohibition against the open dumping of solid wastes established in section 3734.03 of the Revised Code;

(iii) Solid waste generation and disposal fees established under sections 3734.57 to 3734.574 of the Revised Code;

(iv) Permit to install and plan approval requirements established under sections 6111.03, 6111.44, and 6111.45 of the Revised Code.

Nothing in division (A)(7) of this section shall be construed to limit any other requirements that are applicable to the beneficial use of coal combustion byproducts and that are established under Chapter 3704., 3714., 3734., or 6111. of the Revised Code or under local or federal laws, including, without limitation, requirements governing air pollution control permits, hazardous waste, national pollutant discharge elimination system permits, and section 401 water quality certifications.

(b) As used in division (A)(7) of this section:

(i) "Coal combustion byproducts" means fly ash, bottom ash, coal slag, flue gas desulphurization and fluidized bed combustion byproducts, air or water pollution control residues from the operation of a coal-fired electric or steam generation facility, and any material from a clean coal technology demonstration project or other innovative process at a coal-fired electric or steam generation facility.

(ii) "Beneficial use" means the use of coal combustion byproducts in a manner that is not equivalent to the establishment of a disposal system or a solid waste disposal facility and that is unlikely to affect human health or safety or the environment adversely or to degrade the existing quality of the

land, air, or water. "Beneficial use" includes, without limitation, land application uses for agronomic value; land reclamation uses; and discrete, controlled uses for structural fill, pavement aggregate, pipe bedding aggregate, mine sealing, alternative drainage or capping material, and pilot demonstration projects.

(iii) "Structural fill" means the discrete, controlled use of a coal combustion byproduct as a substitute for a conventional aggregate, raw material, or soil under or immediately adjacent to a building or structure. "Structural fill" does not include uses that involve general filling or grading operations or valley fills.

(iv) "Pavement aggregate" means the discrete, controlled use of a coal combustion byproduct as a subbase material or drainage layer under or immediately adjacent to a paved road or a paved parking lot where the coal combustion byproduct is a substitute for a conventional aggregate, raw material, or soil.

(v) "Pipe bedding aggregate" means the discrete, controlled use of a coal combustion byproduct as a substitute for a conventional aggregate, raw material, or soil under, around, or immediately adjacent to a water, sewer, or other pipeline.

(vi) "Coal-fired electric or steam generation facility" includes any boiler that is fired with coal or with coal in combination with petroleum coke, oil, natural gas, or any other fossil fuel.

(vii) "Solid waste disposal facility" means a facility for the disposal of solid wastes as provided in Chapter 3734. of the Revised Code and rules adopted under it.

(viii) "Disposal system" has the same meaning as in section 6111.01 of the Revised Code.

(B) The chief, by rule, may designate as unsuitable for coal mining natural areas maintained on the registry of natural areas of the department of natural resources pursuant to ~~that chapter~~ Chapter 1517. Of the Revised Code, wild, scenic, or recreational river areas designated pursuant to ~~Chapter 1501. of the Revised Code~~ that chapter, publicly owned or dedicated parks, and other areas of unique and irreplaceable natural beauty or condition, or areas within specified distances of a public road, occupied dwelling, public building, school, church, community, or institutional building, public park, or cemetery. Such a designation may include land adjacent to the perimeters of those areas that may be necessary to protect their integrity.

(C)(1) The adoption, amendment, and rescission of rules under divisions (A)(1) and (B) of this section are subject to Chapter 119. of the Revised

Code.

(2) The issuance of orders under division (A)(2) of this section and appeals therefrom are not governed by or subject to Chapter 119. of the Revised Code, but are governed by this chapter.

(D)(1) When the chief or an authorized representative of the chief determines that any condition or practice exists or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation creates an imminent danger to the health or safety of the public or is causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative immediately shall order the cessation of coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. The cessation order shall remain in effect until the chief or the authorized representative determines that the condition, practice, or violation has been abated or until the order is modified, vacated, or terminated by the chief or the authorized representative pursuant to division (D)(4) of this section or by the reclamation commission pursuant to section 1513.13 of the Revised Code. When the chief or ~~an the~~ authorized representative ~~of the chief~~ finds that the ordered cessation of coal mining and reclamation operations or any portion thereof will not completely abate the imminent danger to the health or safety of the public or the significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative, in addition to the cessation order, shall order the operator to take whatever steps the chief or the authorized representative considers necessary to abate the imminent danger or the significant environmental harm.

(2) When the chief or an authorized representative of the chief determines that any person is in violation of any requirement of this chapter or any permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative shall issue a notice of violation to the person or the person's agent fixing a reasonable time for the abatement of the violation, provided that the time afforded a person to abate the violation shall not exceed the time limitations prescribed by the secretary of the interior in 30 C.F.R. Part 843 for an approvable state regulatory program under the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.

If, upon expiration of the period of time as originally fixed or subsequently extended for good cause shown and upon the written finding

of the chief or ~~an~~ the authorized representative ~~of the chief~~, the chief or the authorized representative finds that the violation has not been abated, the chief or the authorized representative immediately shall order the cessation of coal mining and reclamation operations or the portion thereof relevant to the violation. The cessation order shall remain in effect until the chief or the authorized representative determines that the violation has been abated or until the order is modified, vacated, or terminated by the chief or the authorized representative pursuant to division (D)(4) of this section or by the reclamation commission pursuant to section 1513.13 of the Revised Code. In a cessation order issued under ~~this~~ division (D)(2) of this section, the chief or the authorized representative shall prescribe the steps necessary to abate the violation in the most expeditious manner possible.

(3) When in the judgment of the chief or an authorized representative of the chief a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed and the violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or are willfully caused by the permittee, the chief or the authorized representative immediately shall issue an order to the permittee to show cause why the permit should not be suspended or revoked. If a hearing is requested, the chief shall inform all interested parties of the time and place of the hearing and conduct the hearing pursuant to division (D) of section 1513.13 of the Revised Code. Upon the permittee's failure to show cause why the permit should not be suspended or revoked, the chief or the authorized representative immediately shall suspend or revoke the permit.

(4) Notices of violation and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the alleged violator or the agent of the alleged violator by the chief or ~~the~~ an authorized representative of the chief who issues the notice or order. Notices and orders shall be in writing and shall be signed by the chief or the authorized ~~representatives~~ representative and may be modified, vacated, or terminated by the chief or the authorized representative. Any notice or order issued pursuant to this section that requires cessation of mining by the operator shall expire within thirty days after actual notice to the operator unless a public hearing pursuant to section 1513.13 of the Revised Code is held at the site or within such reasonable proximity to the site that any viewings of the site can be

conducted during the course of the public hearing.

(E) The chief may appoint, under section 121.13 of the Revised Code, an advisory committee of experts in the fields of hydrology, soil conservation, historic preservation, and related fields to provide advice on coal mining and reclamation practices, the environmental impact of coal mining, the adoption of rules, the approval of plans, and the issuance of permits under section 1513.07 of the Revised Code.

(F)(1) A person who violates a permit condition or any other provision of this chapter may be assessed a civil penalty by the chief, except that if the violation leads to the issuance of a cessation order under division (D) of this section, the civil penalty shall be assessed for each day until the person initiates the necessary corrective steps. The penalty shall not exceed five thousand dollars for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the person's history of previous violation at the particular coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the person was negligent; and the demonstrated diligence of the person charged in attempting to achieve rapid compliance after notification of the violation.

(2) A civil penalty shall be assessed by the chief only after the person charged with a violation under division (F)(1) of this section has been given an opportunity for a public hearing. If a person charged with such a violation fails to avail self of the opportunity for a public hearing, a civil penalty shall be assessed by the chief after the chief has determined that a violation did occur, and the amount of the penalty ~~which~~ that is warranted, and has issued an order requiring that the penalty be paid.

(3) Upon the issuance of a notice or order charging that a violation of this chapter has occurred, the chief shall inform the operator within thirty days of the proposed amount of the penalty and provide opportunity for an adjudicatory hearing pursuant to section 1513.13 of the Revised Code. The person charged with the penalty then shall have thirty days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, file a petition for review of the proposed assessment with the secretary of the reclamation commission pursuant to section 1513.13 of the Revised Code. If, after the hearing, the commission affirms or modifies the proposed amount of the penalty, the person charged with the penalty then shall have thirty days after receipt of the written decision to pay the amount in full or file an appeal with the court

of appeals in accordance with section 1513.14 of the Revised Code. At the time the petition for review of the proposed assessment is filed with the secretary, the person shall forward the amount of the penalty to the secretary for placement in the reclamation penalty fund, which is hereby created. The fund shall be in the custody of the treasurer of state, but shall not be a part of the state treasury. Pursuant to administrative or judicial review of the penalty, the secretary, within thirty days, shall remit the appropriate amount of the penalty to the person, with interest, if it is determined that no violation occurred or that the amount of the penalty should be reduced, and the secretary shall forward the balance of the penalty or, if the penalty was not reduced, the entire amount of the penalty, with interest, to the chief for deposit in the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code. Failure to forward the money to the secretary within thirty days after the chief informs the operator of the proposed amount of the penalty shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. Within fifteen days after being informed of the penalty, the person charged with the penalty may request in writing an informal assessment conference to review the amount of the penalty. The conference shall be presided over by the chief or ~~someone~~ an individual appointed by the chief other than the inspector that issued the notice of violation or order upon which the penalty is based. The chief shall adopt rules governing procedures to be followed in informal conferences. Time allowed for payment of the penalty or appeal to the commission shall be tolled while the penalty is being reviewed in an informal conference.

(4) An operator who fails to correct a violation for which a notice of violation or order has been issued under division (D) of this section within the period permitted for its correction shall be assessed a civil penalty of not less than seven hundred fifty dollars for each day during which the failure or violation continues. However, a civil penalty shall not be assessed under ~~this~~ division (F)(4) of this section if the commission orders the suspension of the abatement requirement after determining, based upon the findings of an expedited hearing held under section 1513.13 of the Revised Code at the request of the operator, that the operator will suffer irreparable loss or damage from the application of the abatement requirement or if the court orders suspension of the abatement requirement pursuant to review proceedings held under section 1513.14 of the Revised Code at the request of the operator.

(G) The chief may enter into a cooperative agreement with the secretary of the interior to provide for state regulation of coal mining and reclamation

operations on federal lands within the state.

(H) The chief may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts.

(I) The chief shall transmit copies of all schedules submitted under section 1513.07 of the Revised Code pertaining to violations of air or water quality laws and rules adopted and orders issued ~~thereunder~~ under those laws in connection with coal mining operations to the director of environmental protection for verification.

(J) For the purposes of sections 1513.18, 1513.24, 1513.37, and 1514.06 of the Revised Code, the chief triennially shall determine the average wage rate for companies performing reclamation work for the division under those sections by averaging the wage rate paid by all companies performing such reclamation work during the three years immediately preceding the determination. However, in making the initial determination under this division, the chief shall average the wage rate paid by all companies performing such reclamation work during the ten years immediately preceding October 29, 1995.

Sec. 1513.18. (A) All money that becomes the property of the state under ~~divisions (A) to~~ division (G) of section 1513.16 of the Revised Code shall be deposited in the reclamation forfeiture fund, which is hereby created in the state treasury. Disbursements from the fund shall be made by the chief of the division of mines and reclamation only for the purpose of reclaiming areas of land affected by coal mining under a coal mining and reclamation permit issued on or after September 1, 1981, on which an operator has defaulted.

(B) All cash that becomes the property of the state under division (H) of section 1513.16 of the Revised Code shall be deposited in the ~~defaulted areas~~ reclamation supplemental forfeiture fund, which is hereby created in the state treasury. The fund shall consist of all moneys so deposited, any moneys transferred to it under this division from the unreclaimed lands fund created in section 1513.30 of the Revised Code, any moneys transferred to it under section 1513.181 of the Revised Code from the coal mining and reclamation reserve fund created in that section, and moneys collected and credited to it pursuant to section 5749.02 of the Revised Code. Disbursements from the fund shall be made by the chief only for the purpose of reclaiming areas ~~of land affected by coal mining under a permit issued under this chapter after April 10, 1972, but before September 1, 1981, on which an operator has defaulted.~~ that an operator has affected by mining and failed to reclaim under a coal mining and reclamation permit issued

under this chapter or under a surface mining permit issued under Chapter 1514. of the Revised Code. The chief's priority for management of the fund, including the selection of projects and transfer of moneys, shall be to ensure that sufficient moneys are available for the reclamation of areas affected by mining under a coal mining and reclamation permit.

The chief may expend moneys from the defaulted-areas fund to pay necessary administrative costs, including engineering and design services, incurred by the division in reclaiming these areas. Expenditures from the fund to pay such administrative costs need not be made under contract.

As moneys are spent from the fund, the director of budget and management, upon the certification of the chief, shall transfer additional moneys from the unreclaimed lands fund created in section 1513.30 of the Revised Code that the chief requests, provided that the director shall not transfer more than one million dollars from the unreclaimed lands fund to the reclamation supplemental forfeiture fund during any fiscal year.

(C) Except when paying necessary administrative costs authorized by division (B) of this section, expenditures from either fund shall be made under contracts entered into by the chief, with the approval of the director of natural resources, in accordance with procedures established by the chief, by rules adopted in accordance with section 1513.02 of the Revised Code. The chief may reclaim the land in the same manner as set forth in sections 1513.21 to 1513.24 of the Revised Code. Each contract awarded by the chief shall be awarded to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once and at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after advertising, no bids are received by the chief at the time and place fixed for receiving them, the chief may advertise again for bids, or, if ~~he~~ the chief considers the public interest will best be served, ~~he~~ the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published. The chief, with the approval of the director, may enter into a contract with the landowner, a coal mine operator or surface mine operator mining under a current, valid permit issued under this chapter or Chapter 1514. of the Revised Code, or a contractor hired by the surety to complete reclamation to carry out reclamation on land affected

by coal mining on which an operator has defaulted without advertising for bids.

~~(D) There is hereby created the reclamation supplemental forfeiture fund in the state treasury, to be used by the chief to reclaim areas that any operator has affected by mining and failed to reclaim under a coal mining and reclamation permit issued on or after September 1, 1981. The chief's priority for management of the fund, including the selection of projects and transfer of moneys, shall be to ensure that sufficient moneys are available for reclamation of such areas.~~

~~The chief may expend moneys from the fund to pay necessary administrative costs, including engineering and design services, incurred by the division in reclaiming these areas. Expenditures from the fund to pay such administrative costs need not be made under contract. As moneys are spent from the fund, the director of budget and management, upon the certification of the chief, shall transfer such additional moneys from the unreclaimed lands fund created in section 1513.30 of the Revised Code as are needed to keep the balance of the reclamation supplemental forfeiture fund at two million dollars, provided that the director shall not transfer more than one million dollars to that fund during any fiscal year.~~

~~(E) If the amount of money credited to the reclamation forfeiture fund from the forfeiture of the bond applicable to the area of land is not sufficient to pay the cost of doing all of the reclamation work on land that the operator should have done, but failed to do under a coal mining and reclamation permit issued on or after September 1, 1981, the chief may expend from the moneys credited to the reclamation supplemental forfeiture fund created in this under section 5749.02 of the Revised Code or transferred to the fund under division (B) of this section or under section 1513.181 of the Revised Code the amount of money necessary to complete the reclamation work to the standards required by this chapter.~~

~~(F) If the amount of money credited to the defaulted areas fund from the forfeiture of the bond applicable to the area of land is not sufficient to pay the cost of doing all of the reclamation work on land that the operator should have done, but failed to do under a permit issued under this chapter after April 10, 1972, but before September 1, 1981, the chief may expend the additional amount of money necessary to complete the reclamation work to the standards required by this chapter from moneys credited to the fund under Chapter 5749. of the Revised Code or transferred to the fund under section 1513.181 of the Revised Code.~~

~~(G)(E) The chief shall keep a detailed accounting of the expenditures from the reclamation supplemental forfeiture fund and of the additional~~

~~expenditures from the defaulted areas fund~~ to complete reclamation of the land and, upon completion of the reclamation, shall certify the expenditures to the attorney general. Upon the chief's certification of the expenditures from the reclamation supplemental forfeiture fund ~~or the additional expenditures from the defaulted areas fund~~, the attorney general shall bring an action for that amount of money. The operator is liable for ~~such~~ that expense in addition to any other liabilities imposed by law. Moneys so recovered shall be credited to the reclamation supplemental forfeiture fund ~~or the defaulted areas fund, as appropriate~~. The chief shall not postpone the reclamation because of any action brought by the attorney general under this division. Prior to completing reclamation, the chief may collect through the attorney general any additional amount that the chief believes will be necessary for reclamation in excess of the forfeited bond amount applicable to the land that the operator should have, but failed to, reclaim.

~~(H)~~(F) If any part of the moneys in the reclamation forfeiture fund remains in the fund after the chief has caused the area of land to be reclaimed and has paid all the reclamation costs and expenses, the chief may expend those moneys to complete other reclamation work performed under this section on forfeiture areas affected under a coal mining and reclamation permit issued on or after September 1, 1981.

~~(I)~~ If any part of the moneys in the defaulted areas fund remains in the fund after the chief has caused the area of land to be reclaimed and has paid all the reclamation costs and expenses, the chief may expend those moneys to complete other reclamation work performed under this section on forfeiture areas affected under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981.

~~(J)~~(G) The chief shall require every contractor performing reclamation work pursuant to this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work as determined by the chief under section 1513.02 of the Revised Code.

Sec. 1513.181. There is hereby created in the state treasury the coal mining administration and reclamation reserve fund. The fund shall be used for the administration and enforcement of this chapter. The chief of the division of mines and reclamation ~~shall expend the balance of moneys paid into the fund in accordance with~~ may transfer not more than one million dollars annually from the fund to the reclamation supplemental forfeiture fund created in section 1513.18 of the Revised Code to complete reclamation of lands affected by coal mining under a permit issued under this chapter ~~after April 10, 1972, but before September 1, 1981, or by~~

urface mining under a surface mining permit issued under Chapter 1514. Of the Revised Code, that the operator failed to reclaim and for which the operator's bond is insufficient to complete the reclamation. Within ten days before or after the beginning of each calendar quarter, the chief shall certify to the director of budget and management the amount of money needed to perform such reclamation during the quarter for transfer from the coal mining administration and reclamation reserve fund to the ~~defaulted areas reclamation supplemental forfeiture fund created in division (B) of section 1513.18 of the Revised Code~~. The total amount of such transfers during a fiscal year shall not exceed the amount of moneys paid into the coal mining administration and reclamation reserve fund not used for administration and enforcement of this chapter.

Fines collected under division (F) of section 1513.02 and section 1513.99 of the Revised Code, and fines collected for a violation of section 2921.31 of the Revised Code that, prior to ~~the effective date of this amendment~~ July 1, 1996, would have been a violation of division (G) of section 1513.17 of the Revised Code as it existed prior to that date, shall be paid into the coal mining administration and reclamation reserve fund.

Sec. 1513.20. The chief of the division of mines and reclamation, with the approval of the director of natural resources, may purchase or acquire by gift, donation, or contribution any eroded land, including land affected by strip mining, for which no cash is held in the ~~strip mining~~ reclamation forfeiture fund created by section 1513.18 of the Revised Code. For this purpose the chief may expend moneys deposited in the unreclaimed lands fund created by section 1513.30 of the Revised Code. All lands purchased or acquired shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

Sec. 1513.30. There is hereby created in the state treasury the unreclaimed lands fund, to be administered by the chief of the division of mines and reclamation and used for the purpose of reclaiming land, public or private ~~land~~, affected by mining or controlling mine drainage, for which no cash is held in the ~~strip mining~~ reclamation forfeiture fund created in section 1513.18 of the Revised Code or the surface mining reclamation fund created in section 1514.06 of the Revised Code, and also for the purpose of paying the expenses and compensation of the council on unreclaimed strip mined lands as required by section 1513.29 of the Revised Code.

In order to direct expenditures from the unreclaimed lands fund toward reclamation projects that fulfill priority needs and provide the greatest public benefits, the chief ~~shall~~ periodically shall submit to the council project proposals to be financed from the unreclaimed lands fund, together

with benefit and cost data and other pertinent information. For the purpose of selecting project areas and determining the boundaries of project areas, the council shall consider the feasibility, cost, and public benefits of reclaiming the areas, their potential for being mined, the availability of federal or other financial assistance for reclamation, and the geographic distribution of project areas to ensure fair distribution among affected areas.

The council shall give priority to areas where there is little or no likelihood ~~that the area will be mined~~ of mining within the foreseeable future, reclamation is feasible at reasonable cost with available funds, and either of the following applies:

(A) The pollution of the waters of the state and damage to adjacent property are most severe and widespread;

(B) Reclamation will make possible public uses for soil, water, forest, or wildlife conservation or public recreation purposes, will facilitate orderly commercial or industrial site development, or will facilitate the use or improve the enjoyment of nearby public conservation or recreation lands.

At least two weeks before any meeting of the council on unreclaimed strip mined lands at which the chief will submit a project proposal, a project area will be selected, or the boundaries of a project area will be determined, the chief shall mail notice by first class mail to the board of county commissioners of the county and the board of township trustees of the township in which the proposed project lies and the chief executive and the legislative authority of each municipal corporation within the proposed project area. The chief also shall give reasonable notice to the news media in the county where the proposed project lies.

Expenditures from the unreclaimed lands fund for reclamation projects may be made only for projects that are within the boundaries of project areas approved by the council, and expenditures for a particular project may not exceed any applicable limits set by the council. Expenditures from the unreclaimed lands fund shall be made by the chief, with the approval of the director of natural resources.

The controlling board may transfer excess funds from the oil and gas well plugging fund, after recommendation by the council on unreclaimed strip mined lands, to meet deficiencies in the unreclaimed lands fund.

The chief may expend an amount not to exceed twenty per cent of the moneys credited annually by the treasurer of state to the unreclaimed lands fund for the purpose of administering the unreclaimed lands fund.

The chief may engage in cooperative projects under this section with any agency of the United States, appropriate state agencies, or state universities or colleges as defined in section 3345.27 Of the Revised Code

and may transfer money from the fund, with the approval of the council, to other appropriate state agencies or to state universities or colleges in order to carry out the reclamation activities authorized by this section.

Sec. 1513.37. (A) There is hereby created in the state treasury the abandoned mine reclamation fund, which shall be administered by the chief of the division of mines and reclamation. The fund shall consist of grants from the ~~United States~~ secretary of the interior ~~out of~~ from the federal abandoned mine reclamation fund established by Title IV of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted ~~thereunder~~ under it, and amendments ~~thereto~~ to the act and regulations. Expenditures from the abandoned mine reclamation fund shall be made by the chief for the following purposes:

(1) Reclamation and restoration of land and water resources adversely affected by past coal mining, including, but not limited to, reclamation and restoration of abandoned strip mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling of abandoned deep mine entries and voids; planting of land adversely affected by past coal mining; prevention of erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage, including restoration of streambeds and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; and prevention, abatement, and control of coal mine subsidence;

(2) Acquisition and filling of voids and sealing of tunnels, shafts, and entryways of ~~non-coal~~ NONCOAL lands;

(3) Acquisition of land as provided for in this section;

(4) Administrative expenses incurred in accomplishing the purposes of this section;

(5) All other necessary expenses to accomplish the purposes of this section.

(B) Expenditures of moneys from the fund on land and water eligible pursuant to division (C) of this section shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(2) The protection of public health, safety, and general welfare from adverse effects of coal mining practices;

(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil and water (excluding

channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;

(4) Research and demonstration projects relating to the development of coal mining reclamation and water quality control program methods and techniques;

(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation facilities, and conservation facilities adversely affected by coal mining practices;

(6) The development of publicly owned land adversely affected by coal mining practices, including land acquired as provided in this section for recreation and historic purposes, conservation and reclamation purposes, and open space benefits.

(C)(1) Lands and water eligible for reclamation or drainage abatement expenditures under this section are those that were mined for coal or were affected by such mining, wastebanks, coal processing, or other coal mining processes and that meet one of the following criteria:

(a) Are lands that were ~~and~~ abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws;

(b) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and August 16, 1982, and that any moneys for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site;

(c) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and November 5, 1990, that the surety of the mining operator became insolvent during that time, and that, as of November 5, 1990, any moneys immediately available from proceedings relating to that insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

(2) In determining which sites to reclaim pursuant to divisions (C)(1)(b) and (c) of this section, the chief shall follow the priorities stated in divisions (B)(1) and (2) of this section and shall ensure that priority is given to those sites that are in the immediate vicinity of a residential area or that have an adverse economic impact on a local community.

(3) Surface coal mining operations on lands eligible for re-mining shall not affect the eligibility of those lands for reclamation and restoration under this section after the release of the bond for any such operation as provided

under division (F) of section 1513.16 of the Revised Code. If the bond for a surface coal mining operation on lands eligible for re-mining is forfeited, moneys available under this section may be used if the amount of the bond is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant, the chief immediately shall exercise the authority granted under division (L) of this section.

(D) The chief may submit to the secretary of the interior a state reclamation plan and annual projects to carry out the purposes of this section.

(1) The reclamation plan generally shall identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform ~~such~~ the work in accordance with this section.

(2) On an annual basis, the chief may submit to the secretary an application for support of the abandoned mine reclamation fund and implementation of specific reclamation projects. The annual requests shall include such information as may be requested by the secretary.

Before submitting an annual application to the secretary, the chief first shall submit it to the council on unreclaimed strip mined lands for review and approval by the council. The chief shall not submit such an application to the secretary until it has been approved by the council. The chief shall submit applications for administrative costs, imminent hazards, or emergency projects to the council for review.

(3) The costs for each proposed project under this section shall include actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, and other necessary administrative expenses.

(4) Before making any expenditure of funds from the fund to implement any specific reclamation project under this section, the chief first shall submit to the council a project proposal and any other pertinent information regarding the project requested by the council for review and approval of the specific project by the council.

(5) The chief may submit ~~such~~ annual and other reports required by the secretary when funds are provided by the secretary under Title IV of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted ~~thereunder~~ under it, and amendments ~~thereto~~ to the act and regulations.

(E)(1) There is hereby created in the state treasury the acid mine

drainage abatement and treatment fund, which shall be administered by the chief. The fund shall consist of grants from the ~~United States~~ secretary of the interior ~~out of~~ from the federal abandoned mine reclamation fund pursuant to section 402(g)(6) of Title IV of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. All investment earnings of the fund shall be credited to the fund.

(2) The chief shall make expenditures from the fund, in consultation with the United States department of agriculture, soil conservation service, to implement acid mine drainage abatement and treatment plans approved by the ~~United States~~ secretary ~~of the interior~~. The plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices and shall include at least all of the following:

(1)(a) An identification of the qualified hydrologic unit. As used in division (E) of this section, "qualified hydrologic unit" means a hydrologic unit that meets all of the following criteria:

(a)(i) The water quality in the unit has been significantly affected by acid mine drainage from coal mining practices in a manner that has an adverse impact on biological resources;

(b)(ii) The unit contains lands and waters that meet the eligibility requirements established under division (C) of this section and any of the priorities established in divisions (B)(1) to (3) of this section;

(c)(iii) The unit contains lands and waters that are proposed to be the subject of expenditures from the reclamation forfeiture fund created in section 1513.18 of the Revised Code, the ~~defaulted areas~~ reclamation supplemental forfeiture fund created in that section, or the unreclaimed lands fund created in section 1513.30 of the Revised Code.

(2)(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;

(3)(c) An identification of the sources of acid mine drainage within the hydrologic unit;

(4)(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;

(5)(e) The cost of undertaking the proposed abatement and treatment measures;

(6)(f) An identification of existing and proposed sources of funding for those measures;

(7)(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

(3) The chief may make grants of moneys from the acid mine drainage abatement and treatment fund to watershed groups for conducting projects to accomplish the purposes of this section. A grant may be made in an amount equal to not more than fifty per cent of each of the following:

(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:

(i) Identify a watershed as a qualified hydrologic unit;

(ii) Monitor the quality of water in a qualified hydrologic unit before, during, and at any time after completion of the project by the watershed group.

(b) Engineering design costs and construction costs involved in the project, provided that the project is conducted in a qualified hydrologic unit and the chief considers the project to be a priority.

A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to the chief on forms provided by the division of mines and reclamation, together with detailed estimates and timetables for accomplishing the stated goals of the project and any other information that the chief requires.

For the purposes of establishing priorities for awarding grants under division (E)(3) of this section, the chief shall consider each project's feasibility, cost-effectiveness, and environmental benefit, together with the availability of matching funding, including in-kind services, for the project.

The chief shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purposes of this section and that the work that the project involves is done properly. The contract is not subject to division (B) of section 127.16 of the Revised Code. The final payment of grant moneys shall not be made until the chief inspects and approves the completed project.

The chief shall require each applicant awarded a grant under this section who conducts a project involving construction work to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work performed in the same or a similar locality by private companies doing similar work on similar projects.

As used in division (E)(3) of this section, "watershed group" means a charitable organization as defined in section 1716.01 of the Revised Code that has been established for the purpose of conducting reclamation of land and waters adversely affected by coal mining practices and specifically for conducting acid mine drainage abatement.

(F)(1) If the chief makes a finding of fact that land or water resources

have been adversely affected by past coal mining practices; the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent the adverse effects should be taken; the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known or are not readily available; or the owners will not give permission for the state, political subdivisions, or their agents, employees, or contractors to enter upon the property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices; then, upon giving notice by mail to the owners, if known, or, if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipal corporation or county in which the land lies, the chief or the chief's agents, employees, or contractors may enter upon the property adversely affected by past coal mining practices and any other property to have access to the property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The entry shall be construed as an exercise of the police power for the protection of the public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor of trespass ~~thereon~~ on it. The moneys expended for the work and the benefits accruing to any such premises so entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry, but this provision is not intended to create new rights of action or eliminate existing immunities.

(2) The chief or the chief's authorized representatives may enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. The entry shall be construed as an exercise of the police power for the protection of the public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor trespass ~~thereon~~ on it.

(3) The chief may acquire any land by purchase, donation, or condemnation that is adversely affected by past coal mining practices if the chief determines that acquisition of the land is necessary to successful reclamation and that all of the following apply:

(a) The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, serve conservation and reclamation

purposes, or provide open space benefits;

(b) Permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices;

(c) Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this section or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

(4)(a) Title to all lands acquired pursuant to this section shall be in the name of the state. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(b) The chief may receive grants on a matching basis from the secretary of the interior for the purpose of carrying out this section.

(5)(a) Where land acquired pursuant to this section is considered to be suitable for industrial, commercial, residential, or recreational development, the chief may sell the land by public sale under a system of competitive bidding at not less than fair market value and under ~~such~~ other requirements imposed by rule to ensure that the lands are put to proper use consistent with local and state land use plans, if any, as determined by the chief.

(b) The chief, when requested, and after appropriate public notice, shall hold a public meeting in the county, counties, or other appropriate political subdivisions of the state in which lands acquired pursuant to this section are located. The meetings shall be held at a time ~~which~~ that shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(6) In addition to the authority to acquire land under division (F)(3) of this section, the chief may use money in the fund to acquire land by purchase, donation, or condemnation, and to reclaim and transfer acquired land to a political subdivision, or to any person, if the chief determines that it is an integral and necessary element of an economically feasible plan for the construction or rehabilitation of housing for persons disabled as the result of employment in the mines or work incidental ~~thereto~~ to that employment, persons displaced by acquisition of land pursuant to this section, persons dislocated as the result of adverse effects of coal mining practices that constitute an emergency as provided in the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 466, 30 U.S.C.A. 1240, or

amendments ~~thereto~~ to it, or persons dislocated as the result of natural disasters or catastrophic failures from any cause. Such activities shall be accomplished under such terms and conditions as the chief requires, which may include transfers of land with or without monetary consideration, except that to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to those persons. No part of the funds provided under this section may be used to pay the actual construction costs of housing. The chief may carry out the purposes of ~~this~~ division (F)(6) of this section directly or by making grants and commitments for grants; and may advance money under such terms and conditions as the chief may require to any agency or instrumentality of the state or any public body or nonprofit organization designated by the chief.

(G)(1) Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the chief shall itemize the moneys so expended and may file a statement ~~thereof~~ of the expenditures in the office of the county recorder of the county in which the land lies, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended result in a significant increase in property value. The statement shall constitute a lien upon the land as of the date of the expenditures of the moneys and shall have priority as a lien second only to the lien of real property taxes imposed upon the land. The lien shall not exceed the amount determined by the appraisal to be the increase in the fair market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed under ~~this~~ division (G) of this section against the property of any person who owned the surface prior to May 2, 1977, and did not consent to, participate in, or exercise control over the mining operation that necessitated the reclamation performed.

(2) The landowner may petition, within sixty days after the filing of the lien, to determine the increase in the fair market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement provided in this section. Any party aggrieved by the decision may appeal as provided by state law.

(3) The lien provided in ~~this~~ division (G) of this section shall be

recorded and indexed, under the name of the state and the landowner, in a lien index in the office of the county recorder of the county in which the land lies. The county recorder shall impose no charge for the recording or indexing of the lien. If the land is registered, the county recorder shall make a notation and enter a memorial of the lien upon the page of the register in which the last certificate of title to the land is registered, stating the name of the claimant, amount claimed, volume and page of the record where recorded, and exact time the memorial was entered.

(4) The lien shall continue in force so long as any portion of the amount of the lien remains unpaid. If the lien remains unpaid at the time of conveyance of the land on which the lien was placed, the conveyance may be set aside. Upon repayment in full of the moneys expended under this section, the chief promptly shall issue a certificate of release of the lien. Upon presentation of the certificate of release, the county recorder of the county in which the lien is recorded shall record the lien as having been discharged.

(5) A lien imposed under this section shall be foreclosed upon the substantial failure of a landowner to pay any portion of the amount of the lien. Before foreclosing any lien under this section, the chief shall make a written demand upon the landowner for payment. If the landowner does not pay the amount due within sixty days, the chief shall refer the matter to the attorney general, who shall institute a civil action to foreclose the lien.

(H)(1) The chief may fill ~~such~~ voids, seal ~~such~~ abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or strip mines that the chief determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment.

(2) In those instances where mine waste piles are being reworked for conservation purposes, the incremental costs of disposing of the wastes from those operations by filling voids and sealing tunnels may be eligible for funding, provided that the disposal of these wastes meets the purposes of this section.

(3) The chief may acquire by purchase, donation, easement, or otherwise such interest in land as the chief determines necessary to carry out ~~this~~ division (H) of this section.

(I) ~~Not later than January 1, 1978, and annually thereafter, the~~ The chief shall report annually to the secretary of the interior on operations under the fund and include recommendations as to its future uses.

(J)(1) The chief may engage in any work and do all things necessary or expedient, including the adoption of rules, to implement and administer this section.

(2) The chief may engage in cooperative projects under this section with any agency of the United States, any other state, or their governmental agencies or with any state university or college as defined in section 3345.27 Of the Revised Code. The cooperative projects are not subject to division (B) of section 127.16 Of the Revised Code.

(3) The chief may request the attorney general to initiate in any court of competent jurisdiction an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work provided in this section, which remedy is in addition to any other remedy available under this section.

(4) The chief may construct or operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water. Division (J)(4) of this section does not repeal or supersede any portion of the "Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 U.S.C.A. 1151, as amended, and no control or treatment under division (J)(4) of this section, in any way, shall be less than that required by that act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

(5) The chief may transfer money from the abandoned mine reclamation fund and the acid mine drainage abatement and treatment fund to other appropriate state agencies or to state universities or colleges in order to carry out the reclamation activities authorized by this section.

(K) The chief may contract for any part of work to be performed under this section, with or without advertising for bids, if the chief determines that a condition exists that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

The chief shall require every contractor performing reclamation work under this section to pay its workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work as determined by the chief under section 1513.02 of the Revised Code.

(L)(1) The chief may contract for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of mining practices on eligible lands if the chief determines that an emergency exists constituting a danger to the public health, safety, or welfare and that no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent those adverse effects. The chief may enter into a contract for emergency work under ~~this~~ division (L) of this section without

ising for bids. Any such contract or any purchase of materials for emergency work under ~~this~~ division (L) of this section is not subject to division (B) of section 127.16 of the Revised Code.

(2) The chief or the chief's agents, employees, or contractors may enter on any land where such an emergency exists, and on other land in order to have access to that land, in order to restore, reclaim, abate, control, or prevent the adverse effects of mining practices and to do all things necessary or expedient to protect the public health, safety, or welfare. Such an entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property or of trespass. The moneys expended for the work and the benefits accruing to any premises so entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry. This provision is not intended to create new rights of action or eliminate existing immunities.

Sec. 1515.03. Each county shall have a soil and water conservation district coextensive with the geographic area of the county, and each district shall constitute a political subdivision of this state. ~~On May 2, 1980, each existing district created pursuant to former section 1515.03 of the Revised Code shall include the entire county in which it is located.~~

~~A municipal corporation may remove itself from or reinstate itself in the territory of a soil and water conservation district by filing a resolution of its legislative authority with the soil and water conservation commission at least sixty days before the effective date of the removal or reinstatement.~~

Sec. 1515.08. The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive

and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation, development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) ~~When~~ Except as provided in section 307.86 Of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than ~~ten thousand dollars~~ the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the

place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it;

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code;

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into;

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water conservation to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

(N) Until June 1, 1996, to conduct surveys and investigations relating to the incidence of the multiflora rose within the district and of the nature and extent of the adverse effects of the multiflora rose on agriculture, forestry, recreation, and other beneficial land uses;

(O) Until June 1, 1996, to develop plans for the control of the multiflora rose within the district and to publish those plans and information related to control of the multiflora rose;

(P) Until June 1, 1996, to enter into contracts or agreements with the

chief of the division of soil and water conservation to implement and administer a program for control of the multiflora rose and to receive and expend funds provided by the chief for that purpose;

(Q) Until June 1, 1996, to enter into cost-sharing agreements with landowners for control of the multiflora rose. Before entering into any such agreement, the board of supervisors shall determine that the landowner's application meets the eligibility criteria established under division (E)(6) of section 1511.02 of the Revised Code. The cost-sharing agreements shall contain the contract provisions required by the rules adopted under that division and such other provisions as the board of supervisors considers appropriate to ensure effective control of the multiflora rose.

(R) To enter into contracts or agreements with the chief to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

(S) To develop operation and management plans, as defined in section 1511.01 of the Revised Code, as necessary;

(T) To determine whether operation and management plans developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or a concentrated animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

~~(T)~~(U) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 1511.022 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (H) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to

prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of that section and to operate in accordance with that plan or to operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(10)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division ~~(T)~~(U) of this section, "composting" has the same meaning as in section 1511.01 of the Revised Code.

~~(U)~~(V) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project ~~which he~~ that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

Sec. 1515.24. Upon receipt of a certification made by the supervisors of a soil and water conservation district pursuant to section 1515.20 of the Revised Code, the board of county commissioners may levy upon the property within the project area an assessment at a uniform or varied rate based upon the benefit to the area certified by the supervisors, as necessary to pay the cost of construction of the improvement not otherwise funded and to repay advances made for purposes of the improvement from the fund created by section 1515.15 of the Revised Code. The board of county commissioners shall direct the person or authority preparing assessments to give primary consideration, in determining a parcel's estimated assessments relating to the disposal of water, to the potential increase in productivity that the parcel may experience as a result of the improvement and also to give consideration to the amount of water disposed of, the location of the property relative to the project, the value of the project to the watershed, and benefits as defined in ~~division (F)~~ of section 6131.01 of the Revised Code. ~~Such~~ The part of the assessment as that is found to benefit state, county, or township roads or highways or municipal streets shall be assessed against

the state, county, township, or municipal corporation, respectively, payable from motor vehicle revenues. ~~Such~~ The part of the assessment as ~~that~~ is found to benefit property owned by any public corporation, any political subdivision of the state, or the state shall be assessed against the public corporation, the political subdivision, or the state and shall be paid out of the general funds or motor vehicle revenues of the public corporation, the political subdivision of the state, or the state, except as otherwise provided by law. ~~The~~

The assessment shall be certified to the county auditor; and by ~~him~~ the county auditor to the county treasurer. The collection of ~~such~~ the assessment shall conform in all matters to Chapter 323. of the Revised Code. Any land owned and managed by the department of natural resources for wildlife, recreation, nature preserve, or forestry purposes is exempt from assessments if the director of natural resources determines that the land derives no benefit from the improvement. In making such a determination, the director shall consider the purposes for which the land is owned and managed and any relevant articles of dedication or existing management plans for the land. If the director determines that the land derives no benefit from the improvement, ~~he~~ the director shall notify the board of county commissioners, within thirty days after receiving the assessment notification required by this section, indicating that ~~he~~ the director has determined that the land is to be exempt and explaining ~~his~~ the specific reason for making this determination. The board of county commissioners ~~may~~, within thirty days after receiving the director's exemption notification, may appeal ~~this~~ the determination to the court of common pleas. If the court of common pleas finds in favor of the board of county commissioners, the department of natural resources shall pay all court costs and legal fees.

If the assessment is to be made at a varied rate, the board shall give notice by first class mail to every public and private property owner whose property is subject to assessment, at the tax mailing or other known address of the owner. ~~Such~~ the notice shall contain a statement of the amount to be assessed against the property of the addressee and a statement that ~~he~~ the addressee may file an objection in writing at the office of the board of county commissioners within thirty days after the mailing of notice. If the residence of any owner cannot be ascertained, or if any mailed notice is returned undelivered, the board shall publish ~~such~~ the notice to all such owners in a newspaper of general circulation within the project area, at least once each week for three weeks, which notice shall include the information contained in the mailed notice, but ~~it~~ shall state that the owner may file an objection in writing at the office of the board of county commissioners

in thirty days after the last publication of ~~such~~ the notice.

Upon receipt of objections as provided in this section, the board shall proceed within thirty days to hold a final hearing ~~upon~~ on the objections by fixing a date and giving notice by first class mail to the objectors at ~~such~~ the address ~~as~~ provided in filing ~~his~~ the objection. If any mailed notice is returned undelivered, the board shall give due notice to ~~such~~ the objectors in a newspaper of general circulation in the project area, stating the time, place, and purpose of the hearing. Upon hearing the objectors, the board may amend and shall approve the final schedule of assessments by journal entry.

Any owner whose objection is not allowed may appeal within thirty days to the court of common pleas of the county in which the property is located.

Any moneys collected in excess of the amount needed for construction of the improvement and the subsequent first year's maintenance may be maintained in a fund to be used for maintenance of the improvement. In any year subsequent to a year in which an assessment for construction of an improvement levied under this section has been collected, and upon determination by the board of county commissioners that funds are not otherwise available for maintenance or repair of the improvement, the board shall levy ~~upon~~ on the property within the project area an assessment for maintenance at a uniform percentage of all construction costs based upon the assessment schedule used in determining the construction assessment. ~~Such~~ The assessment is not subject to the provisions concerning notice and petition contained in section 1515.25 of the Revised Code. An assessment for maintenance shall not be levied in any year in which the unencumbered balance of funds available for maintenance of the ~~improvements~~ improvement exceeds twenty per cent of the cost of construction of the improvement, except that the board may adjust the level of assessment within the twenty per cent limitation, or suspend temporarily the levying of an assessment, for maintenance purposes as maintenance funds are needed.

For the purpose of levying an assessment for maintenance of an improvement, a board may use the procedures established in Chapter 6137. of the Revised Code regarding maintenance of improvements as defined in section 6131.01 of the Revised Code in lieu of using the procedures established under this section.

The board of county commissioners may issue bonds and notes as authorized by section 131.23 or 133.17 of the Revised Code.

Sec. 1517.10. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B)(1) Any person selected by the chief of the division of natural areas

nd preserves for custodial or patrol service on the lands and waters operated or administered by the division shall be employed in conformity with the law applicable to the classified civil service of the state. Subject to division (C) of this section, the chief may designate that person as a preserve officer. A preserve officer ~~has~~, in any nature preserve, in any natural area owned or managed through easement, license, or lease by the department of natural resources and administered by the division, and on lands owned or managed through easement, license, or lease by the department and administered by the division that are within or adjacent to any wild, scenic, or recreational river area established under this chapter and along any trail established under Chapter 1519. of the Revised Code, has the authority ~~vested in police officers~~ specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that ~~such~~ the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an enforcement officer of that division in an emergency. A preserve officer, in or along any watercourse within, abutting, or upstream from the boundary of any area administered by the department, has the authority to enforce section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters; and to make arrests for violation of those laws. The jurisdiction of a preserve officer shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

The governor, upon the recommendation of the chief, shall issue to each preserve officer a commission indicating authority to make arrests as provided in this section.

The chief shall furnish a suitable badge to each commissioned preserve officer as evidence of the preserve officer's authority.

(2) If any person employed under this section is designated by the chief to act as an agent of the state in the collection of money resulting from the sale of licenses, fees of any nature, or other money belonging to the state, the chief shall require a surety bond from the person in an amount not less than one thousand dollars.

(C)(1) The chief of the division of natural areas and preserves shall not designate a person as a preserve officer pursuant to division (B)(1) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The chief of the division of natural areas and preserves shall terminate the employment as a preserve officer of a person designated as a preserve officer under division (B)(1) of this section if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the preserve officer agrees to surrender the certificate awarded to the preserve officer under section 109.77 of the Revised Code.

(b) The chief shall suspend from employment as a preserve officer a person designated as a preserve officer under division (B)(1) of this section if that person is convicted, after trial, of a felony. If the preserve officer files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the preserve officer does not file a timely appeal, the chief shall terminate the employment of that preserve officer. If the preserve officer files an appeal that results in the preserve officer's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the preserve officer, the chief shall reinstate that preserve officer. A preserve officer who is reinstated under division (C)(2)(b) of this section shall not receive any back pay unless that preserve officer's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the preserve officer of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a preserve officer under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 1517.14. As used in sections 1517.14 to 1517.18 of the Revised Code, "watercourse" means a substantially natural channel with recognized banks and bottom, in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length. The director of natural resources or ~~his~~ the director's representative may create, supervise, operate, protect, and maintain wild, scenic, and recreational river areas under the classifications established in section 1517.15 of the Revised Code. The director or ~~his~~ the director's representative may prepare and maintain a plan for the establishment, development, use, and administration of those areas as a part of the comprehensive state plans for water management and outdoor recreation. The director or ~~his~~ the director's representative may cooperate with federal agencies administering any

federal program concerning wild, scenic, or recreational river areas.

The director may propose for establishment as a wild, scenic, or recreational river area a part or parts of any watercourse in this state, with adjacent lands, ~~which~~ that in his the director's judgment possesses water conservation, scenic, fish, wildlife, historic, or outdoor recreation values ~~which~~ that should be preserved, using the classifications established in section 1517.15 of the Revised Code. The area shall include lands adjacent to the watercourse in sufficient width to preserve, protect, and develop the natural character of the watercourse, but shall not include any lands more than one thousand feet from the normal waterlines of the watercourse unless an additional width is necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values.

The director shall publish ~~his~~ the intention to declare an area a wild, scenic, or recreational river area at least once in a newspaper of general circulation in each county, any part of which is within the area, and shall send written notice of ~~his~~ the intention to the legislative authority of each county, township, and municipal corporation and to each conservancy district established under Chapter 6101. of the Revised Code, any part of which is within the area, and to the director of transportation, the director of development, the director of administrative services, and the director of environmental protection. The notices shall include a copy of a map and description of the area.

After thirty days from the last date of publication or dispatch of written notice as required in this section, the director shall enter a declaration in ~~his~~ the director's journal that the area is a wild, scenic, or recreational river area. When so entered, the area is a wild, scenic, or recreational river area. The director, after thirty days' notice as prescribed in this section and upon the approval of the ~~recreational~~ recreation and resources commission created in section 1501.04 Of the Revised Code, may terminate the status of an area as a wild, scenic, or recreational river area by an entry in ~~his~~ the director's journal.

Declaration by the director that an area is a wild, scenic, or recreational river area does not authorize the director or any governmental agency or political subdivision to restrict the use of land by the owner thereof or any person acting under ~~his~~ the landowner's authority or to enter upon the land and does not expand or abridge the regulatory authority of any governmental agency or political subdivision over the area.

The chief of the division of natural areas and preserves or ~~his~~ the chief's representative may participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of wild, scenic, and

recreational river areas.

Sec. 1517.99. (A) ~~Whoever (1) Except as provided in division (A)(2) of this section, whoever violates division (A) of section 1517.021 or section 1517.051 of the Revised Code shall be fined not less than twenty five nor more than five hundred dollars for a first offense; for each subsequent offense the person shall be fined not less than two hundred nor more than one thousand dollars is guilty of a minor misdemeanor.~~

(2) Whoever violates section 1517.021 of the Revised Code with regard to a species of plant identified in a rule adopted under or included on a list prepared under section 1518.01 of the Revised Code is guilty of a misdemeanor of the third degree for a first offense. For each subsequent offense, the person is guilty of a misdemeanor of the second degree.

(B) Whoever violates division (A) of section 1517.24 or section 1517.25 of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates division (B) of section 1517.24 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates section 1517.051 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 1518.99. (A) Whoever violates section 1518.02 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates section 1518.05 of the Revised Code shall be fined not less than one thousand dollars nor more than five thousand dollars for the first offense; for each subsequent offense the person shall be fined not less than two thousand dollars nor more than ten thousand dollars.

~~(C) Whoever violates section 1518.23 or 1518.24 of the Revised Code is guilty of a misdemeanor of the first degree.~~

Sec. 1520.01. As used in this chapter:

(A) "Canal lands" includes any part of the bed, berm, bank, or slope of any canal, canal basin, or canal reservoir or of any lock, aqueduct, dam, culvert, tunnel, feeder, or side cut formerly a part of any canal system in this state, whether or not abandoned; the outer slope of any towing path embankment formerly a part of any canal system in this state; and any tract of land that was a part of or intended for the use of any canal system in this state. "Canal lands" means only those canal lands that are the property of the state.

(B) ~~"Reservoir~~ Canal reservoir" means any ~~man-made~~ artificial lake or impoundment, ~~including any run of the river reservoir,~~ that was constructed to provide water to any canal system in this state.

(C) "Domestic use" means the withdrawal of water from a canal or canal reservoir by an individual for outdoor, nonpotable use on residential

property by means of a pump or other device that generally has a discharge line with an outside diameter of not more than one and one-half inches.

Sec. 1520.02. (A) The director of natural resources has exclusive authority to administer, manage, and establish policies governing canal lands.

(B)(1) Except as provided in division (C) of this section, the director may sell, lease, exchange, give, or grant all or part of the state's interest in any canal lands in accordance with section 1501.01 of the Revised Code. The director may stipulate that an appraisal or survey need not be conducted for, and may establish any terms or conditions that ~~he~~ the director determines appropriate for, any such ~~conveyance~~ CONVEYANCE.

(2) With regard to canal lands, the chief of the division of water, with the approval of the director, may sell, lease, or transfer minerals or mineral rights when the chief and the director determine that the sale, lease, or transfer is in the best interest of the state. Consideration for minerals and mineral rights shall be by rental or on a royalty basis as prescribed by the chief and payable as prescribed by contract. Moneys collected under division (B)(2) of this section shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

(C)(1) Not later than one year after July 1, 1989, the director of transportation and the director of the Ohio historical society shall ~~identify~~ IDENTIFY all canal lands that are or may be of use to any program operated by the department of transportation or the Ohio historical society, respectively, and shall notify the director of natural resources of those lands. The director of natural resources may transfer any canal lands so identified to the exclusive care, custody, and control of the department of transportation or the Ohio historical society, as applicable, by means of a departmental transfer not later than six months after receiving notification under division (C)(1) of this section.

(2) The director of natural resources may transfer to the Ohio historical society any equipment, maps, and records used on or related to canal lands that are of historical interest and that are not needed by the director to administer this chapter.

(D) If the director of natural resources determines that any canal lands are a necessary part of a county's drainage or ditch system and are not needed for any purpose of the department of natural resources, the director may sell, grant, or otherwise convey those canal lands to that county in accordance with division (B) of this section. The board of county commissioners shall accept the transfer of canal lands.

(E) Notwithstanding any other section of the Revised Code, the county auditor shall transfer any canal lands conveyed under this section, and the county recorder shall record the deed for those lands in accordance with section 317.12 of the Revised Code. This division does not apply to canal lands transferred under division (C)(1) of this section.

Sec. 1520.03. (A) The director of natural resources may appropriate real property in accordance with Chapter 163. of the Revised Code for the purpose of administering this chapter.

(B) The director shall operate and maintain all canals and canal reservoirs owned by the state except those canals that are operated by the Ohio historical society on July 1, 1989.

(C) The director may sell or lease water from any canal or canal reservoir that ~~he~~ the director operates and maintains only to the extent that the water is in excess of the quantity that is required for navigation, recreation, and wildlife purposes. The director ~~shall~~ may adopt, ~~and may~~ amend, and rescind, rules in accordance with Chapter 119. of the Revised Code necessary to administer this division.

The withdrawal of water from any canal or canal reservoir for domestic use is exempt from this division. However, the director may require water conservation measures for water that is withdrawn from any canal or canal reservoir for domestic use during drought conditions or other emergencies declared by the governor.

(D) No person shall take or divert water from any canal or canal reservoir operated and maintained by the director except in accordance with ~~a sale or lease entered into under~~ division (C) of this section.

(E) At the request of the director, the attorney general may commence a civil action for civil penalties and injunctions, in a court of common pleas, against any person who has violated or is violating division (D) of this section. The court of common pleas in which an action for injunctive relief is filed has jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated or is violating that division.

Upon a finding of a violation, the court shall assess a civil penalty of not more than one thousand dollars for each day of each violation if the violator is an individual who took or diverted the water in question for residential or agricultural use. The court shall assess a civil penalty of not more than five thousand dollars for each day of each violation if the violator is any other person who took or diverted the water in question for industrial or commercial use excluding agricultural use. Moneys from civil penalties assessed under this division shall be paid into the state treasury to the credit

of the canal lands fund created in section 1520.05 of the Revised Code.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

(F) As used in this section, "person" means any agency of this state, any political subdivision of this state or of the United States, or any legal entity defined as a person under section 1.59 of the Revised Code.

Sec. 1521.03. The chief of the division of water shall do all of the following:

(A) Assist in an advisory capacity any properly constituted watershed district, conservancy district, or soil and water conservation district or any county, municipal corporation, or other government agency of the state in the planning of works for ground water recharge, flood mitigation, floodplain management, flood control, flow capacity and stability of streams, rivers, and watercourses, or the establishment of water conservation practices, within the limits of the appropriations for ~~that purpose~~ those purposes;

(B) Have authority to conduct basic inventories of the water and related natural resources in each drainage basin in the state; to develop a plan on a watershed basis that will recognize the variety of uses to which water may be put and the need for its ~~retention and control~~ management for those uses; with the approval of the director of natural resources and the controlling board, to transfer appropriated or other funds, authorized for those inventories and plan, to any division of the department of natural resources or other state agencies for the purpose of developing pertinent data relating to the plan of water management; and to accept and expend moneys contributed by any person for implementing the development of the plan;

(C) Have authority to make detailed investigations of all factors relating to floods, floodplain management, and flood control in the state with particular attention to those factors bearing upon the ~~maintenance of the hydraulic efficiency of the channels~~ and hydrologic characteristics of rivers, streams, and watercourses ~~as a means of carrying off flood waters~~, recognizing the variety of uses to which water and watercourses may be put;

(D) Cooperate with the United States or any agency thereof and with any political subdivision of the state in planning and constructing flood control works;

(E) Hold meetings or public hearings, whichever is considered appropriate by the chief, to assist in the resolution of conflicts between ground water users. Such meetings or hearings shall be called upon written request from boards of health of city or general health districts created by or

under the authority of Chapter 3709. of the Revised Code or authorities having the duties of a board of health as authorized by section 3709.05 of the Revised Code, boards of county commissioners, boards of township trustees, legislative authorities of municipal corporations, or boards of directors of conservancy districts organized under Chapter 6101. of the Revised Code and may be called by the chief upon the request of any other person or at ~~his~~ the chief's discretion. The chief shall collect and present at such meetings or hearings the available technical information relevant to the conflicts and to the ground water resource. The chief shall prepare a report, and may make recommendations, based upon the available technical data and the record of the meetings or hearings, about the use of the ground water resource. In making the report and any recommendations, the chief also may consider the factors listed in division (B) of section 1521.17 of the Revised Code. The technical information presented, the report prepared, and any recommendations made under this division shall be presumed to be prima-facie authentic and admissible as evidence in any court pursuant to Evidence Rule 902.

(F) Perform stream or ground water gauging and may contract with the United States government or any other agency for the gauging of any streams or ground water within the state;

(G) Primarily with regard to water quantity, have authority to collect, study, map, and interpret all available information, statistics, and data pertaining to the availability, supply, use, conservation, and replenishment of the ground and surface waters in the state in coordination with other agencies of this state;

(H) Primarily with regard to water quantity and availability, be authorized to cooperate with and negotiate for the state with any agency of the United States government, of this state, or of any other state pertaining to the water resources of the state.

Sec. 1521.05. (A) As used in this section:

(1) "Construct" or "construction" includes drilling, boring, digging, deepening, altering, and logging.

(2) "Altering" means changing the configuration of a well, including, without limitation, deepening a well, extending or replacing any portion of the inside or outside casing or wall of a well that extends below ground level, plugging a portion of a well back to a certain depth, and reaming out a well to enlarge its original diameter.

(3) "Logging" means describing the lithology, grain size, color, and texture of the formations encountered during the drilling, boring, digging, deepening, or altering of a well.

(4) "Grouting" means neat ~~cement~~ cement; bentonite products in slurry, granular, or pelletized form, excluding drilling mud or fluids; or any combination of neat cement and bentonite products that is placed within a well to seal the annular space or to seal an abandoned well and that is impervious to and capable of preventing the movement of water.

(5) "Abandoned well" means a well whose use has been permanently discontinued and that poses potential health and safety hazards or that has the potential to transmit surface contaminants into the aquifer in which the well has been constructed.

(6) "Sealing" means the complete filling of an abandoned well with grouting or other approved materials in order to permanently prevent the vertical movement of water in the well and thus prevent the contamination of ground water or the intermixing of water between aquifers.

(B) Any person that constructs a well shall keep a careful and accurate log of the construction of the well. The log shall show all of the following:

(1) The character, including, without limitation, the lithology, color, texture, and grain size, the name, if known, and the depth of all formations passed through or encountered;

(2) The depths at which water is encountered;

(3) The static water level of the completed well;

(4) A copy of the record of all pumping tests and analyses related to those tests, if any;

(5) Construction details, including lengths, diameters, and thicknesses of casing and screening and the volume, type of material, and method of introducing gravel packing and grouting into the well;

(6) The type of pumping equipment installed, if any;

(7) The name of the owner of the well, the address of the location where the well was constructed, and a description of the location of the property where the well was constructed;

(8) The signature of the individual who constructed the well and filed the well log;

(9) Any other information required by the chief of the division of water.

The log shall be furnished to the division within thirty days after the completion of construction of the well, ~~upon~~ on forms prescribed and prepared by the division. The log shall be kept on file by the division.

In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules requiring other persons that are involved in the construction or subsequent development of a well to submit well logs under this division containing any or all of the information specified in divisions (B)(1) to (9) of this section and requiring any person that seals an

abandoned well to submit a well sealing report under this division containing any or all of the information specified in those divisions and any additional information specified in the rules.

(C)(1) No person shall fail to keep and submit a well log as required by this section.

(2) No person shall make a false statement in any well log required to be kept and submitted under this section. Violation of division (C)(2) of this section is falsification under section 2921.13 of the Revised Code.

(D) For the purposes of prosecution of a violation of division (C)(1) of this section, a prima-facie case is established when the division obtains either of the following:

(1) A certified copy of a permit for a private water system issued in accordance with rules adopted under section 3701.344 of the Revised Code, or a certified copy of the invoice or a canceled check from the owner of a well indicating the construction services performed;

(2) A certified copy of any permit issued under Chapter 3734. or 6111. of the Revised Code or plan approval granted under Chapter 6109. Of the Revised Code for any activity that includes the construction of a well.

Sec. 1531.01. As used in this chapter and Chapter 1533. of the Revised Code:

(A) "Person" means individual, company, partnership, corporation, municipal corporation, association, or any combination of individuals, or any employee, agent, or officer thereof.

(B) "Resident" means any individual who has resided in this state for not less than six months next preceding the date of making application for a license.

(C) "Nonresident" means any individual who does not qualify as a resident.

(D) "Division rule" or "rule" means any rule adopted by the chief of the division of wildlife under section 1531.10 of the Revised Code unless the context indicates otherwise.

(E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited.

(F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is permitted.

(G) "Take or taking" includes pursuing, shooting, hunting, killing, trapping, angling, fishing with a trotline, or netting any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, wild bird, or wild quadruped, and

any lesser act, such as wounding, or placing, setting, drawing, or using any other device for killing or capturing any wild animal, whether it results in killing or capturing the animal or not. "Take or taking" includes every attempt to kill or capture and every act of assistance to any other person in killing or capturing or attempting to kill or capture a wild animal.

(H) "Possession" means both actual and constructive possession and any control of things referred to.

(I) "Bag limit" means the number, measurement, or weight of any kind of crayfish, aquatic insects, fish, frogs, turtles, wild birds, and wild quadrupeds permitted to be taken.

(J) "Transport and transportation" means carrying or moving or causing to be carried or moved.

(K) "Sell and sale" means barter, exchange, or offer or expose for sale.

(L) "Whole to include part" means that every provision relating to any wild animal protected by this chapter and Chapter 1533. of the Revised Code applies to any part ~~thereof~~ of the wild animal with the same effect as it applies to the whole.

(M) "Angling" means fishing with not more than two hand lines, not more than two units of rod and line, or a combination of not more than one hand line and one rod and line, either in hand or under control at any time while fishing. The hand line or rod and line shall have attached to it not more than three baited hooks, not more than three artificial fly rod lures, or one artificial bait casting lure equipped with not more than three sets of three hooks each.

(N) "Trotline" means a device for catching fish that consists of a line having suspended from it, at frequent intervals, vertical lines with hooks attached.

(O) "Fish" means a cold-blooded vertebrate having fins.

(P) "Measurement of fish" means length from the end of the nose to the longest tip or end of the tail.

(Q) "Wild birds" includes game birds and nongame birds.

(R) "Game" includes game birds, game quadrupeds, and fur-bearing animals.

(S) "Game birds" includes mourning doves, ringneck pheasants, bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, wild turkey, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, duck, geese, brant, and crows.

(T) "Nongame birds" includes all other wild birds not included and defined as game birds.

(U) "Wild quadrupeds" includes game quadrupeds and fur-bearing animals.

(V) "Game quadrupeds" includes ~~hares or~~ cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, flying squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, wild boar, and black bears.

(W) "Fur-bearing animals" includes minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, and bobcats.

(X) "Wild animals" includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer.

(Y) "Hunting" means pursuing, shooting, killing, following after or on the trail of, lying in wait for, shooting at, or wounding wild birds or wild quadrupeds while employing any device commonly used to kill or wound wild birds or wild quadrupeds whether or not the acts result in killing or wounding. "Hunting" includes every attempt to kill or wound and every act of assistance to any other person in killing or wounding or attempting to kill or wound wild birds or wild quadrupeds.

(Z) "Trapping" means securing or attempting to secure possession of a wild bird or wild quadruped by means of setting, placing, drawing, or using any device that is designed to close upon, hold fast, confine, or otherwise capture a wild bird or wild quadruped whether or not the means results in capture. "Trapping" includes every act of assistance to any other person in capturing wild birds or wild quadrupeds by means of the device whether or not the means results in capture.

(AA) "Muskrat spear" means any device used in spearing muskrats.

(BB) "Channels and passages" means those narrow bodies of water lying between islands or between an island and the mainland in Lake Erie.

(CC) "Island" means a rock or land elevation above the waters of Lake Erie having an area of five or more acres above water.

(DD) "Reef" means an elevation of rock, either broken or in place, or gravel shown by the latest United States chart to be above the common level of the surrounding bottom of the lake, other than the rock bottom, or in place forming the base or foundation rock of an island or mainland and sloping from the shore ~~thereof~~ of it. "Reef" also means all elevations shown by that chart to be above the common level of the sloping base or foundation rock of an island or mainland, whether running from the shore of an island or parallel with the contour of the shore of an island or in any other way and whether formed by rock, broken or in place, or from gravel.

(EE) "Fur farm" means any area used exclusively for raising fur-bearing

animals or in addition thereto used for hunting game, the boundaries of which are plainly marked as such.

(FF) "Waters" includes any lake, pond, reservoir, stream, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial.

(GG) "Crib" or "car" refers to that particular compartment of the net from which the fish are taken when the net is lifted.

(HH) "Commercial fish" means those species of fish permitted to be taken, possessed, bought, or sold unless otherwise restricted by the Revised Code or division rule and are alewife (*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin (*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus cyprinellus*), black bullhead (*Ictalurus melas*), yellow bullhead (*Ictalurus natalis*), brown ~~bullheads~~ bullhead (*Ictalurus nebulosus*), channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), freshwater drum or sheepshead (*Aplodinotus grunniens*), gar (*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish (*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye (*Hiodon tergisus*), quillback (*Carpiodes cyprinus*), smelt (*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other than buffalo and quillback (*Carpiodes* sp., *Catostomus* sp., *Hypentelium* sp., *Minytrema* sp., *Moxostoma* sp.), white bass (*Morone chrysops*), white perch (*Roccus americanus*), and yellow perch (*Perca flavescens*). When the common name of a fish is used in this chapter or Chapter 1533. of the Revised Code, it refers to the fish designated by the scientific name in this definition.

(II) "Fishing" means taking or attempting to take fish by any method, and all other acts such as placing, setting, drawing, or using any device commonly used to take fish whether resulting in a taking or not.

(JJ) "Fillet" means the pieces of flesh taken or cut from both sides of a fish, joined to form one piece of flesh.

(KK) "Part fillet" means a piece of flesh taken or cut from one side of a fish.

(LL) "Round" when used in describing fish means with head and tail intact.

(MM) "Migrate" means the transit or movement of fish to or from one place to another as a result of natural forces or instinct and includes, but is not limited to, movement of fish induced or caused by changes in the water flow.

(NN) "Spreader bar" means a brail or rigid bar placed across the entire

width of the back, at the top and bottom of the cars in all trap, crib, and fyke nets for the purpose of keeping the meshes hanging squarely while the nets are fishing.

(OO) "Fishing guide" means any person who, for consideration or hire, operates a boat, rents, leases, or otherwise furnishes angling devices, ice fishing shanties or shelters of any kind, or other fishing equipment, and accompanies, guides, directs, or assists any other person in order for the other person to engage in fishing.

(PP) "Net" means fishing devices with meshes composed of twine or synthetic material and includes, but is not limited to, trap nets, fyke nets, crib nets, carp aprons, dip nets, and seines, except minnow seines and minnow dip nets.

(QQ) "Commercial fishing gear" means seines, trap nets, fyke nets, dip nets, carp aprons, trotlines, other similar gear, and any boat used in conjunction with that gear, but does not include gill nets.

(RR) "Native wildlife" means any species of the animal kingdom indigenous to this state.

(SS) "Gill net" means a single section of fabric or netting seamed to a float line at the top and a lead line at the bottom, which is designed to entangle fish in the net openings as they swim into it.

(TT) ~~"Small game" includes pheasants, quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coot, gallinules, ducks, geese, brant, crows, rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, and groundhogs or woodchucks.~~

(UU) "Tag fishing tournament" means a contest in which a participant pays a fee, or gives other valuable consideration, for a chance to win a prize by virtue of catching a tagged or otherwise specifically marked fish within a limited period of time, but does not include a scheme of chance conducted under division (D)(1) of section 2915.02 of the Revised Code.

~~(VV)~~(UU) "Tenant" means an individual who resides on land for which the individual pays rent and whose annual income is primarily derived from agricultural production conducted on that land, as "agricultural production" is defined in section 929.01 of the Revised Code.

~~(WW)~~(VV) "Nonnative wildlife" means any wild animal not indigenous to this state, but does not include domestic deer.

(WW) "Reptiles" includes common musk turtle (sternotherus odoratus), common snapping turtle (Chelydra serpentina serpentina), spotted turtle (Clemmys guttata), eastern box turtle (Terrapene carolina carolina),

Blanding's turtle (Emydoidea blandingii), common map turtle (Graptemys geographica), ouachita map turtle (Graptemys pseudogeographica ouachitensis), midland painted turtle (Chrysemys picta marginata), red-eared slider (Trachemys scripta elegans), eastern spiny softshell turtle (Apalone spinifera spinifera), midland smooth softshell turtle (Apalone mutica mutica), northern fence lizard (Sceloporus undulatus hyacinthinus), ground skink (Scincella lateralis), five-lined skink (Eumeces fasciatus), broadhead skink (Eumeces laticeps), northern coal skink (Eumeces anthracinus anthracinus), European wall lizard (Podarcis muralis), queen snake (Regina septemvittata), Kirtland's snake (Clonophis kirtlandii), northern water snake (Nerodia sipedon sipedon), Lake Erie watersnake (Nerodia sipedon insularum), copperbelly water snake (Nerodia erythrogaster neglecta), northern brown snake (Storeria dekayi dekayi), midland brown snake (Storeria dekayi wrightorum), northern redbelly snake (Storeria occipitomaculata occipitomaculata), eastern garter snake (Thamnophis sirtalis sirtalis), eastern plains garter snake (Thamnophis radix radix), Butler's garter snake (Thamnophis butleri), shorthead garter snake (Thamnophis brachystoma), eastern ribbon snake (Thamnophis sauritus sauritus), northern ribbon snake (Thamnophis sauritus septentrionalis), eastern hognose snake (Heterodon platirhinos), eastern smooth earth snake (Virginia valeriae valeriae), northern ringneck snake (Diadophis punctatus edwardsii), midwest worm snake (Carphophis amoenus helenae), eastern worm snake (Carphophis amoenus amoenus), black racer (Coluber constrictor constrictor), blue racer (Coluber constrictor foxii), rough green snake (Opheodrys aestivus), smooth green snake (Opheodrys vernalis vernalis), black rat snake (Elaphe obsoleta obsoleta), eastern fox snake (Elaphe vulpina gloydi), black kingsnake (Lampropeltis getula nigra), eastern milk snake (Lampropeltis triangulum triangulum), northern copperhead (Agkistrodon contortrix mokasen), eastern massasauga (Sistrurus catenatus catenatus), and timber rattlesnake (Crotalus horridus horridus).

(XX) "Amphibians" includes eastern hellbender (Cryptobranchus alleganiensis alleganiensis), mudpuppy (Necturus maculosus maculosus), red-spotted newt (Notophthalmus viridescens viridescens), Jefferson salamander (Ambystoma jeffersonianum), spotted salamander (Ambystoma maculatum), blue-spotted salamander (Ambystoma laterale), smallmouth salamander (Ambystoma texanum), streamside salamander (Ambystoma barbouri), marbled salamander (Ambystoma opacum), eastern tiger salamander (Ambystoma tigrinum tigrinum), northern dusky salamander (Desmognathus fuscus fuscus), mountain dusky salamander (Desmognathus

ochrophaeus), redback salamander (Plethodon cinereus), ravine salamander (Plethodon richmondi), northern slimy salamander (Plethodon glutinosus), Wehrle's salamander (Plethodon wehrlei), four-toed salamander (Hemidactylum scutatum), Kentucky spring salamander (Gyrinophilus porphyriticus duryi), northern spring salamander (Gyrinophilus porphyriticus porphyriticus), mud salamander (Pseudotriton montanus), northern red salamander (Pseudotriton ruber ruber), green salamander (Aneides aeneus), northern two-lined salamander (Eurycea bislineata), longtail salamander (Eurycea longicauda longicauda), cave salamander (Eurycea lucifuga), southern two-lined salamander (Eurycea cirrigera), Fowler's toad (Bufo woodhousii fowleri), American toad (Bufo americanus), eastern spadefoot (Scaphiopus holbrookii), Blanchard's cricket frog (Acris crepitans blanchardi), northern spring peeper (Pseudacris crucifer crucifer), gray treefrog (Hyla versicolor), Cope's gray treefrog (Hyla chrysoscelis), western chorus frog (Pseudacris triseriata triseriata), mountain chorus frog (Pseudacris brachyphona), bullfrog (Rana catesbeiana), green frog (Rana clamitans melanota), northern leopard frog (Rana pipiens), pickerel frog (Rana Palustris), southern leopard frog (Rana utricularia), and wood frog (Rana sylvatica).

(YY) "Deer" means white-tailed deer (Oddocoileus virginianus).

(ZZ) "Domestic deer" means nonnative deer that have been legally acquired or their offspring and that are held in private ownership for primarily agricultural purposes.

~~The chief shall not establish a season for the hunting of mourning doves that opens prior to the fifteenth day of September of any year.~~

Sec. 1531.06. (A) The chief of the division of wildlife, with the approval of the director of natural resources, may acquire by gift, lease, purchase, or otherwise lands or surface rights upon lands and waters or surface rights upon waters for wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation. The chief, with the approval of the director, may receive by grant, devise, bequest, donation, or assignment evidences of indebtedness, the proceeds of which are to be used for the purchase of such lands or surface rights upon lands and waters or ~~the~~ surface rights upon waters.

(B)(1) The chief shall adopt rules for the protection of state-owned or leased lands and waters and property under the division's control against wrongful use or occupancy that will ensure the carrying out of the intent of this section, protect those lands, waters, and property from depredations, and preserve them from molestation, spoliation, destruction, or any improper use

or occupancy thereof, including rules with respect to recreational activities and for the government and use of such lands, waters, and property.

(2) The chief may adopt rules benefiting wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation, and regulating the taking and possession of wild animals on any lands or waters owned or leased or under the division's supervision and control and, for a specified period of years, may prohibit or recall the taking and possession of any wild animal on any portion of such lands or waters. The division clearly shall define and mark the boundaries of the lands and waters owned or leased or under its supervision and control upon which the taking of any wild animal is prohibited.

(C) The chief, with the approval of the director, may acquire by gift, lease, or purchase land for the purpose of establishing state fish hatcheries and game farms and may erect ~~thereon~~ on it buildings or structures ~~as~~ that are necessary.

The title to or lease of such lands and waters shall be taken by the chief in the name of the state. The lease or purchase price of all such lands and waters may be paid from hunting and trapping and fishing licenses and any other funds.

(D) To provide more public recreation, stream and lake agreements for public fishing only may be obtained under rules adopted by the chief.

(E) The chief, with the approval of the director, may establish user fees for the use of special public facilities or participation in special activities on lands and waters administered by the division. The special facilities and activities may include hunting or fishing on special designated public lands and waters intensively managed or stocked with artificially propagated game birds or fish, field trial facilities, wildlife nature centers, firearm ranges, boat mooring facilities, camping sites, and other similar special facilities and activities. The chief shall determine whether the user fees are refundable and shall ensure that that information is provided at the time the user fees are paid.

(F) The chief, with the approval of the director, may enter into lease agreements for rental of concessions or other special projects situated on state-owned or leased lands or waters or other property under the division's control. The chief shall set and collect the fees for concession rentals or other special projects; regulate through contracts between the division and concessionaires the sale of tangible objects at concessions or other special projects; and keep a record of all such fee payments showing the amount received, from whom ~~receieved~~ received, and for what purpose the fee was

collected.

(G) The chief may sell or donate conservation-related items or items that promote wildlife conservation, including, but not limited to, stamps, pins, badges, books, bulletins, maps, publications, calendars, and any other educational article or artifact pertaining to wild animals; sell confiscated or forfeited items; and sell surplus structures and equipment, and timber or crops from lands owned, administered, leased, or controlled by the division.

(H) The chief may sell, lease, or transfer minerals or mineral rights, with the approval of the director, when the chief and the director determine it to be in the best interest of the state. Upon approval of the director, the chief may make, execute, and deliver contracts, including leases, to mine, drill, or excavate iron ore, stone, coal, petroleum, gas, salt, and other minerals upon and under lands owned by the state and administered by the division to any person who complies with the terms of such a contract. No such contract shall be valid for more than fifty years from its effective date. Consideration for minerals and mineral rights shall be by rental or royalty basis as prescribed by the chief and payable as prescribed by contract. Moneys collected under this division shall be ~~deposited in accordance with division (F) of this~~ paid into the state treasury to the credit of the wildlife habitat fund created in section 1531.33 Of the Revised Code. Contracts entered into under this division also may provide for consideration for minerals or mineral rights in the form of acquisition of lands as provided under divisions (A) and (C) of this section.

(I) All moneys received under divisions (E), (F), and (G), ~~and (H)~~ of this section shall be paid into the state treasury to the credit of a fund ~~which~~ that shall be used for the purposes outlined in section 1533.15 of the Revised Code and for the management of other wild animals for their ecological and nonconsumptive recreational value or benefit.

(J) The chief, with the approval of the director, may barter or sell wild animals to other states, state or federal agencies, and conservation or zoological organizations. Moneys received from the sale of wild animals shall be deposited into the wild animal fund created in section 1531.34 of the Revised Code.

(K) The chief shall adopt rules establishing standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals. The rules may specify chemical delivery methods and devices and monitoring requirements.

The chief shall establish criteria for the issuance of and shall issue permits for the administration of contraceptive chemicals to noncaptive wild animals. no person shall administer contraceptive chemicals to noncaptive

wild animals without a permit issued by the chief.

(L) All fees set by the chief under this section shall be approved by the wildlife council.

Sec. 1531.081. The division of wildlife does not have authority to regulate domestic deer, which shall be regulated as agricultural animals by the department of agriculture.

Sec. 1531.13. The law enforcement officers of the division of wildlife shall be known as "wildlife officers." The chief of the division of wildlife, wildlife officers, and such other employees of the division as the chief of the division of wildlife designates, and other officers who are given like authority, shall enforce all laws pertaining to the taking, possession, protection, preservation, management, and propagation of wild animals and all division rules. They shall enforce all laws against hunting without permission of the owner or authorized agent of the land on which ~~such~~ the hunting is done. They may arrest on view and without issuance of a warrant. They may inspect any container or package at any time except when within a building and the owner or person in charge of the building objects. The inspection shall be only for bag limits of wild animals taken in open season or for wild animals taken during the closed season, or for any kind or species of those wild animals.

The chief may visit all parts of the state and direct and assist wildlife officers and other employees in the discharge of their duties. The owners or tenants of private lands or waters are not liable to wildlife officers for injuries suffered while carrying out their duties while on the lands or waters of the owners or tenants unless the injuries are caused by the willful or wanton misconduct of the owners or tenants. Any regularly employed salaried wildlife officer may enter any private lands or waters if ~~he~~ the wildlife officer has good cause to believe and does believe that a law is being violated.

A wildlife officer, sheriff, deputy sheriff, constable, or officer having a similar authority may search any place which ~~he~~ the officer has good reason to believe contains a wild animal or any part of a wild animal taken or had in possession contrary to law or division rule, or a boat, gun, net, seine, trap, ferret, or device used in the violation, and seize any ~~he~~ the officer finds so taken or possessed. If the owner or person in charge of the place to be searched refuses to permit the search, upon filing an affidavit in accordance with law with a court having jurisdiction of the offense and upon receiving a search warrant issued, the officer ~~may~~ forcibly may search the place described, and if in the search ~~he~~ the officer finds any wild animal or part of a wild animal, or any boat, gun, net, seine, trap, ferret, or device in the

possession of the owner or person in charge, contrary to this chapter or Chapter 1533. of the Revised Code or division rule, ~~he the officer~~ shall seize ~~them~~ it and arrest the person in whose custody or possession ~~they were~~ it was found. The wild animal or parts of a wild animal or boat, gun, net, seine, trap, ferret, or device so found shall escheat to the state.

Each wildlife officer shall post a bond in a sum not less than one thousand dollars executed by a surety company authorized to transact business in this state for the faithful performance of the duties of ~~his~~ the wildlife officer's office.

The chief and wildlife officers ~~are vested with~~ have the authority ~~of police officers~~ specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources for the purpose of enforcing the criminal laws of the state on any property owned, controlled, maintained, or administered by the department of natural resources and may enforce sections 2923.12, ~~2923.15,~~ and 2923.16 of the Revised Code throughout the state and may arrest without warrant any person who, in the presence of the chief or any wildlife officer, is engaged in the violation of any of those laws.

A wildlife officer may render assistance to a state or local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency. Wildlife officers serving outside the division of wildlife under this section shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

Wildlife officers serving outside the division of wildlife under this section retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses wildlife officers under this section is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any wildlife officer acting under this section.

Sec. 1531.20. Any motor vehicle, all-terrain vehicle, or boat, used in the unlawful taking or transporting of wild animals, and any net, seine, trap, ferret, gun, or other device used in the unlawful taking of wild animals, is a public nuisance. Each wildlife officer, or other officer with like authority, shall seize and safely keep such property and the illegal results of its use, and unless otherwise ordered by the chief of the division of wildlife shall

institute, within five days, proceedings in a proper court of the county for its forfeiture. A writ of replevin shall not lie to take the property from the officer's custody or from the custody or jurisdiction of the court in which the proceeding is instituted, nor shall the proceeding affect a criminal prosecution for the unlawful use or possession of the property.

An action for the forfeiture of any such property shall be commenced by the filing of an affidavit describing the property seized and stating the unlawful use made of it, the time and place of seizure, and the name of the person owning or using it at the time of seizure. If the name is unknown, that fact shall be stated. Upon the filing of the affidavit, the court shall issue a summons setting forth the facts stated in the affidavit and fixing a time and place for the hearing of the complaint. A copy of the summons shall be served on the owner or person using the property at the time of its seizure, if ~~he~~ the owner or user is known, or by leaving a copy thereof at ~~his~~ the owner's or user's usual residence or place of business in the county, at least three days before the time fixed for the hearing of the complaint. If the owner or user is unknown or a nonresident of the county or cannot be found therein, a copy of the summons shall be posted at a suitable place nearest the place of seizure, but if ~~his~~ the owner's or user's address is known, a copy of the summons shall be mailed to ~~him~~ the owner or user at least three days before the time fixed for the hearing of the complaint. On the date fixed for the hearing, the officer making the service shall make a return of the time and manner of making the service. Upon the proper cause shown, the court may postpone the hearing.

If the owner or person unlawfully using the property at the time of its seizure is arrested, pleads guilty, and confesses that the property at the time of its seizure was being used by ~~him~~ the owner or user in violation of law or division rule, no proceeding of forfeiture shall be instituted, but the court in imposing sentence shall order the property so seized forfeited to the state, to be disposed of thereafter as the chief of the division of wildlife directs.

Notwithstanding any other provision of this section to the contrary, a proceeding of forfeiture shall not be instituted under this section unless the owner of the property or the person unlawfully using the property is convicted of a violation of law or division rule.

Sec. 1531.202. Any person who is responsible for causing or allowing an unauthorized spill, release, or discharge of material into or on any land or any ground or surface water or into the air that results in the death of a wild animal and that necessitates an investigation by the division of wildlife, or who violates section 1531.02 of the Revised Code in a manner that necessitates an investigation by the division regarding the death of a wild

animal, is liable to the division for costs incurred in the investigation if the person pleads guilty to or is convicted of causing or allowing the unauthorized spill, release, or discharge or a violation of section 1531.02 of the Revised Code. The costs may include wages and benefits of employees of the division. The chief of the division of wildlife or the chief's authorized representative shall bring a civil action against the responsible person to recover those costs.

Sec. 1531.33. The wildlife habitat fund is hereby created in the state treasury, ~~which. The fund~~ shall consist of the investment earnings of the wildlife habitat trust fund, ~~and created in section 1531.32 of the Revised Code; gifts, donations, bequests, and other moneys contributed to the division of wildlife for the purposes of the fund; moneys collected under division (H) of section 1531.06 of the Revised Code; and moneys received by the division pursuant to negotiated mitigation settlements from persons who have adversely affected fish and wildlife, or their habitats, over which the division has jurisdiction under this chapter or Chapter 1533. of the Revised Code other than fish and wildlife of the Ohio river or their habitats.~~

The fund shall be used by the division of wildlife to acquire and develop lands for the preservation, propagation, and protection of wild animals. All expenditures from the wildlife habitat fund must SHALL be approved by the director of natural resources. Quarterly each fiscal year, the treasurer of state shall transfer the investment earnings of the wildlife habitat trust fund to the wildlife habitat fund.

Sec. 1531.34. There is hereby created in the state treasury the wild animal fund. The fund shall consist of moneys received from the sale of wild animals under division (J) of section 1531.06 of the Revised Code. Moneys in the fund shall be spent on programs administered by the division of wildlife or contributed by the division to an appropriate nonprofit organization for the acquisition, development, and management of lands and waters within the state for wildlife purposes.

Sec. 1531.99. (A) Whoever violates section 1531.02 of the Revised Code, or any division rule, other than a rule adopted under section 1531.25 of the Revised Code, is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 1531.02 of the Revised Code concerning the taking or possession of deer or violates division (K) of section 1531.06 or section 1531.07 or 1531.29 of the Revised Code is guilty of a misdemeanor of the third degree on a first offense; on each subsequent offense, that person is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 1531.25 of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates section 1531.02 of the Revised Code concerning the selling or offering for sale of any wild animals or parts of wild animals, the minimum value of which animals or parts, in the aggregate, is more than one thousand dollars as established under section 1531.201 of the Revised Code, is guilty of a felony of the fifth degree.

(E) A court that imposes sentence for a violation of any section of this chapter governing the holding, taking, or possession of wild animals, including, without limitation, section 1531.11 of the Revised Code, shall require the person who is convicted of or pleads guilty to the offense, in addition to any fine, term of imprisonment, seizure, and forfeiture imposed, to make restitution for the minimum value of the wild animal illegally held, taken, or possessed as established under section 1531.201 of the Revised Code. An officer who collects moneys paid as restitution under this section shall pay those moneys to the treasurer of state who shall deposit them in the state treasury to the credit of the wildlife fund established under section 1531.17 of the Revised Code.

Sec. 1533.01. As used in this chapter, "person," "resident," "nonresident," "division rule," "rule," "closed season," "open season," "take or taking," "possession," "bag limit," "transport and transportation," "sell and sale," "whole to include part," "angling," "trotline," "fish," "measurement of fish," "wild birds," "game," "game birds," "nongame birds," "wild quadrupeds," "game quadrupeds," "fur-bearing animals," "wild animals," "hunting," "trapping," "muskrat spear," "channels and passages," "island," "reef," "fur farm," "waters," "crib," "car," "commercial fish," "fishing," "fillet," "part fillet," "round," "migrate," "spreader bar," "fishing guide," "net," "commercial fishing gear," "native wildlife," "gill net," "~~small game,~~" "tag fishing tournament," "tenant," ~~and~~ "nonnative wildlife," "reptiles," "amphibians," and "deer" have the same meanings as in section 1531.01 of the Revised Code.

Sec. 1533.06. It is hereby provided that a "special hunting area" is established on the department of natural resources lands and waters situated in Lucas and Ottawa counties and known as the "Magee Marsh State Public Hunting Area."

On ~~such~~ that area the chief of the division of wildlife ~~is hereby empowered to~~ may provide a special daily hunting permit for all persons permitted to hunt on ~~such~~ the area. The fee for such a permit is five dollars per day unless the chief adopts rules establishing a lower fee.

The permit shall be in ~~such~~ a form as prescribed by the director ~~of the department~~ of natural resources. All moneys received as fees shall be paid into the state treasury to the credit of a fund ~~which~~ that is hereby

appropriated exclusively for the use of the department of natural resources for the purposes outlined in section 1533.15 of the Revised Code.

Nothing in this section shall be construed to alter or supersede the laws requiring a hunting ~~and trapping~~ license.

Sec. 1533.08. Except as otherwise provided by division rule, any person desiring to collect wild animals that are protected by law or their nests or eggs for scientific study, school instruction, other educational uses, or rehabilitation shall make application to the chief of the division of wildlife for a wild animal collecting permit on a form furnished by the chief. ~~The applicant shall submit written recommendations of two well known scientific persons or teachers of science, certifying to the good character and fitness of the applicant.~~ Each applicant for a wild animal collecting permit, other than an applicant desiring to rehabilitate wild animals, shall pay an annual fee of ten dollars for each permit. No fee shall be charged to an applicant desiring to rehabilitate wild animals. When it appears that the application is made in good faith, the chief shall issue to the applicant a permit to take, possess, and transport at any time and in any manner specimens of wild animals protected by law or their nests and eggs for scientific study, school instruction, other educational uses, or rehabilitation and under any additional rules recommended by the wildlife council. Upon the receipt of a permit, the holder may take, possess, and transport ~~such~~ those wild animals in accordance with the permit.

Each holder of a permit engaged in collecting such wild animals shall carry ~~his~~ the permit ~~with him~~ at all times and shall exhibit it upon demand to any wildlife officer, constable, sheriff, deputy sheriff, or police officer, to the owner or person in lawful control of the land upon which ~~he~~ the permit holder is collecting, or to any other person. Failure to so carry or exhibit the permit constitutes an offense under this section.

Each permit holder shall keep a daily record of all specimens collected under the permit and the disposition of the specimens and shall exhibit the daily record to any official of the division upon demand.

Each permit shall remain in effect for one year from the date of issuance unless it is revoked sooner by the chief.

All moneys received as fees for the issuance of a wild animal collecting permit shall be transmitted to the director of natural resources to be paid into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code.

Sec. 1533.10. Except as provided in this section or division (A) of section 1533.12 of the Revised Code, no person shall hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts

within the state without procuring such a license constitutes a separate offense. Every applicant for a hunting license who is a resident of the state and ~~age~~ sixteen years of age or ~~over~~ more shall procure a resident hunting license, the fee for which shall be fourteen dollars, unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Every applicant who is a resident of the state and under the age of sixteen years shall procure a special youth hunting license, the fee for which shall be one-half of the regular hunting license fee. The owner of lands in the state and the owner's children of any age and grandchildren under eighteen years of age may hunt on the lands without a hunting license. The tenant or manager and children of the tenant or manager, residing on lands in the state, may hunt ~~thereon~~ on them without a hunting license. Every applicant for a hunting license who is a nonresident of the state shall procure a nonresident hunting license, the fee for which shall be ninety dollars, unless the applicant is a resident of a state that is a party to an agreement under section 1533.91 of the Revised Code, in which case the fee shall be fourteen dollars.

The chief of the division of wildlife may issue a tourist's ~~small game~~ hunting license expiring three days from the effective date of the license to a nonresident of the state, the fee for which shall be twenty-four dollars. No person shall take or possess deer, wild turkeys, fur-bearing animals, ducks, geese, brant, or any nongame animal ~~that is not small game~~ while possessing only a tourist's ~~small game~~ hunting license. A tourist's ~~small game~~ hunting license does not authorize the taking or possessing of ducks, geese, or brant without having obtained, in addition to the tourist's ~~small game~~ hunting license, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code. A tourist's hunting license does not authorize the taking or possessing of deer, wild turkeys, or fur-bearing animals. A nonresident of the state who wishes to take or possess deer, wild turkeys, or fur-bearing animals in this state shall procure, respectively, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or a fur taker permit as provided in section 1533.111 of the Revised Code in addition to a nonresident hunting license as provided in this section.

No person shall procure or attempt to procure a hunting license by fraud, deceit, misrepresentation, or any false statement.

This section does not authorize the taking and possessing of deer or wild turkeys without first having obtained, in addition to the hunting license required by this section, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks,

geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a hunting license to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a hunter education and conservation course for first-time hunting license buyers and for volunteer instructors. The course shall consist of subjects including, but not limited to, hunter safety and health, use of hunting implements, hunting tradition and ethics, the hunter and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to hunting. Authorized personnel of the division or volunteer instructors approved by the chief shall conduct such courses with such frequency and at such locations throughout the state as to reasonably meet the needs of license applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Sec. 1533.12. (A) Every person on active duty in the armed forces of the

United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on ~~his person self~~ when fishing, hunting, or trapping, a card or other evidence identifying ~~him~~ the person as ~~a person being~~ on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a special deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted under section 1531.10 of the Revised Code ~~that~~ all of the following:

(1) Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief;

(2) Every resident of the state who is sixty-six years of age or older shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief;

(3) Every resident of state or county institutions, charitable institutions, and military homes in this state shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief;

(4) Any mobility impaired or blind person, as defined in section 955.011 Of the Revised Code, who is a resident of this state and who is unable to engage in fishing without the assistance of another person ~~because of a physical handicap~~ shall be issued an annual fishing license free of charge

when application is made to the chief in the manner prescribed by and on forms provided by the chief. The person who is assisting the ~~handicapped~~ mobility impaired or blind person may assist in taking or catching fish of the kind permitted to be taken or caught without procuring the license required under section 1533.32 of the Revised Code, provided that only one line is used by both persons.

(5) As used in ~~this~~ division (B)(5) of this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state shall be issued an annual fishing license, hunting license, fur taker permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08 of the Revised Code designating not more than two days, which need not be consecutive, in each year as "free sport fishing days" on which any resident may exercise the privileges accorded the holder of a fishing license issued under section 1533.32 of the Revised Code without procuring such a license, provided that the person is not otherwise violating any of the fishing laws of this state.

Sec. 1533.171. (A) No person, in the act of hunting, pursuing, taking, or killing ~~game~~ a wild animal, shall act in a negligent, careless, or reckless manner so as to injure persons or property.

(B) The court before whom any person is convicted of or pleads guilty to a violation of division (A) of this section shall report that fact, together with the violator's name and address, to the chief of the division of wildlife not later than ten days after the date of conviction or plea.

(C) Not later than seven days after receiving a notification under division (B) of this section, the chief shall revoke, for not less than one year nor more than five years, each hunting license, fur taker permit, special deer permit, special wild turkey permit, and wetlands habitat stamp issued to that person under this chapter. No fee paid for such a license, permit, or stamp shall be returned to the person.

Upon revoking a license, permit, or stamp, or a combination thereof, under this division, the chief immediately shall send a notice of ~~his~~ that action by certified mail to the last known address of the person. The notice shall state the action taken, order the person to surrender the revoked

license, permit, or stamp, or combination thereof, and state that the department of natural resources will not afford a hearing as required under section 119.06 of the Revised Code.

(D) If, after receiving a notice under division (C) of this section, the person decides to petition for a review of the revocation, ~~he~~ the person shall file a petition for such a review not later than thirty days after receiving the notice in the municipal court or the county court, or, if the person is under eighteen years of age, the juvenile court, in whose jurisdiction the violation occurred. The review shall be limited to the question of the appropriateness of the period of revocation. The court shall send a copy of the petition to the chief by certified mail together with timely notice of the date, time, and place of a hearing on the petition. The filing of a petition for a review shall not stay the revocation during the pendency of the appeal.

(E) No person whose license, permit, or stamp, or a combination thereof, has been revoked under this section shall attempt to purchase, purchase, apply for, or receive any hunting license, fur taker permit, special deer permit, special wild turkey permit, or wetlands habitat stamp issued under this chapter or engage in hunting during the time any such license, permit, or stamp, or a combination thereof, is revoked.

Sec. 1533.24. Except as otherwise provided by division rule, every fur dealer shall keep a daily record on forms provided by the division of wildlife of all purchases and sales of furs, skins, or parts thereof of fur-bearing animals made during the previous year. The daily record shall include any pertinent information that the division may require. The information may include, but not be limited to, the number and kinds bought and sold, the dates of each purchase and sale, identification of all purchases from another fur dealer, and the state and counties in which the furs, skins, or parts thereof were taken, ~~and other pertinent information that the division may require~~. Every fur dealer shall submit completed forms to the division of all transactions made during the preceding season by the fifteenth day of May each year. All records required to be maintained by a fur dealer shall be open at all reasonable times to inspection by duly authorized division personnel who may inspect the furs, skins, or parts thereof on hand at any time and check and verify the records and reports required to be kept.

No common carrier shall knowingly ship or transport or receive for transportation or shipment any green or dried furs, skins, or parts thereof of fur-bearing animals unless there is plainly written thereon the name of the shipper and the number of ~~his~~ the shipper's hunting license or fur dealer's permit.

Sec. 1533.67. The chief of the division of wildlife, wildlife officers, and

~~such~~ other employees of the division as that the chief specifies may serve and execute warrants and other processes of law issued in the enforcement of sections 2923.12, 2923.15, and 2923.16 of the Revised Code and in the enforcement of any law or division rule governing the taking, possession, protection, preservation, or propagation of wild animals, or for protection against the wrongful use or occupancy of state owned or leased lands and waters, and property under division control, or in the enforcement of section 3767.32 or any other section of the Revised Code prohibiting the dumping of refuse into or along waters, or in the enforcement of a criminal law of the state when violation ~~thereof~~ of it involves equipment or property owned, leased, or controlled by the division, in the same manner as a sheriff or constable may serve or execute a process, and may arrest on sight and without a warrant a person found violating any such law or rule. The chief or any wildlife officer has the same authority as sheriffs to require aid in executing a process or making an arrest. They may seize without process each part of a wild animal in the possession of a person violating any law or division rule governing the taking, possession, protection, preservation, or propagation of wild animals, together with any boat, gun, net, seine, trap, ferret, or device with which those animals were taken or killed, or that was used in taking or killing them, and any firearm, deadly weapon, or dangerous ordnance, as defined in section 2923.11 of the Revised Code, used or possessed contrary to sections 2923.12, 2923.15, and 2923.16 of the Revised Code, and immediately convey the person so offending before any judge of a county court or judge of a municipal court having jurisdiction over the area in which the offense was committed. ~~No~~

No person shall interfere with, threaten, abuse, assault, resist, or in any manner deter or attempt to deter a wildlife officer or any other officer having like authority from carrying into effect any law or division rule governing the taking, possession, protection, preservation, or propagation of wild animals, or for protection against wrongful use or occupancy of state-owned or leased lands and waters, and property under division control, or any law pertaining to the ~~wearing or~~ exhibiting of any license or permit required by this chapter or Chapter 1531. of the Revised Code, or regulating hunting and trapping on the lands of another. No person shall interfere with, threaten, abuse, assault, resist, or in any manner deter or attempt to deter a wildlife officer or any other officer having like authority from enforcing or from serving or executing any warrant or other process issued in the enforcement of section 3767.32 or any other section of the Revised Code prohibiting the dumping of refuse into or along waters, or a criminal law of the state when violation ~~thereof~~ of it involves equipment or property owned,

leased, or controlled by the division, or any of the provisions set forth in section 2923.12, 2923.15, or 2923.16 of the Revised Code regulating use or possession of firearms, deadly weapons, or dangerous ordnance, as defined in section 2923.11 of the Revised Code. Arrests for such offenses may be made on Sunday, in which case the offender immediately shall be taken before any court or magistrate given jurisdiction in such cases by this section and required by that court or magistrate to give bond for ~~his~~ the offender's appearance at a time fixed for hearing of the complaint on a weekday as soon after the arrest is made as is practicable. If a bond is required of an offender in such a case and ~~he~~ the offender fails to give it, the court shall order ~~him~~ the offender committed to the county jail or to some other suitable place of confinement until the time for the hearing. The court may make any other arrangements to insure the appearance of the offender at the designated time it considers advisable. The jailer or officer in charge of the place of confinement designated by the court shall receive the person so committed.

Sec. 1533.68. If a person is convicted of a violation of any law relative to the taking, possession, protection, preservation, or propagation of wild animals, or a violation of division (C) of section 2909.08 of the Revised Code while hunting, or is convicted of a violation of any rule of the division of wildlife, the court or magistrate before whom the conviction is had, as an additional part of the penalty in each case, shall suspend or revoke each license or permit issued to the person in accordance with any section of the Revised Code pertaining to the hunting, fishing, trapping, breeding, and sale of wild animals or the sale of their hides, skins, or pelts. No fee paid for such a license or permit shall be returned to the person.

No person having a license or permit suspended or revoked as provided in this section, in the event of a hunting or trapping violation, shall engage in hunting or trapping, in the event of a violation of division (C) of section 2909.08 of the Revised Code while hunting, shall engage in hunting, or in the event of a fishing violation, shall engage in fishing, or purchase, apply for, or receive any such license or permit for the following periods of time, as applicable:

(A) Three years after the date of conviction; if the person is convicted of taking or possessing a deer in violation of section 1531.02 of the Revised Code;

(B) Not more than three years after the date of conviction; if the person is convicted of taking or possessing any other wild animal in violation of section 1531.02 of the Revised Code, is convicted of a misdemeanor violation of division (C) of section 2909.08 of the Revised Code while

hunting, or is convicted of a second or subsequent violation of section 1533.17 of the Revised Code within a period of three consecutive years after the date of conviction of the immediately preceding violation of that section;

(C) Not more than five years after the date of conviction; if the person is convicted of violating section 1533.171 or of taking or possessing an eagle or osprey in violation of section 1533.07 of the Revised Code; or is convicted of a felony violation of division (C) of section 2909.08 of the Revised Code while hunting;

(D) Not more than five years after the date of conviction if the person is convicted of violating any section of this chapter or Chapter 1531. Of the Revised Code not specified in division (A), (B), or (C) of this section.

All licenses and permits suspended or revoked as provided in this section shall be taken up by the magistrate and sent to the department of natural resources where they shall be filed with a record of the arrest until the person who held the suspended or revoked license or permit is lawfully entitled to obtain another license or permit.

Sec. 1533.70. As used in sections 1533.71 to 1533.80 of the Revised Code:

(A) "Wholly enclosed preserve" means an area of land that is surrounded by a fence that is at least six feet in height and is constructed of a woven wire mesh, or ~~such other another enclosure as that~~ the division of wildlife may approve, where game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals are raised and may be sold under the authority of a commercial propagating license obtained under section 1533.71 of the Revised Code.

(B) "Commercial bird shooting preserve" means an area of land where game birds are released and hunted by shooting as authorized by a commercial bird shooting preserve license obtained under section 1533.72 of the Revised Code.

(C) "Wild animal hunting preserve" means an area of land where game and nonnative wildlife, other than game birds, are released and hunted as authorized by a wild animal hunting preserve license obtained under section 1533.721 of the Revised Code.

(D) All definitions set forth in section 1531.01 of the Revised Code apply to ~~these sections 1533.70 to 1533.80~~ Of the Revised Code.

Sec. 1533.71. ~~Any~~ Unless otherwise provided by division rule, any person desiring to engage in the business of raising and selling game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in a wholly enclosed preserve of which ~~he~~ the person is the owner or lessee, or to have game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals

in captivity, ~~may~~ shall apply in writing to the division of wildlife for a license to do so.

The division, when it appears that the application is made in good faith; ~~shall,~~ and upon the payment of the fee for each license, shall issue to the applicant ~~such~~ any of the following licenses ~~as~~ that may be applied for:

(A) "Commercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in the wholly enclosed preserve the location of which is stated in the license and the application therefor, and to sell ~~such~~ the propagated game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and ship them from the state alive at any time, and permitting the licensee and the licensee's employees to kill ~~such~~ the propagated game birds, game quadrupeds, or fur-bearing animals and sell the carcasses for food subject to sections 1533.70 to 1533.80 of the Revised Code. The fee for such a license is twenty-five dollars per annum.

(B) "Noncommercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and to hold ~~such~~ the animals in captivity. Game birds, game quadrupeds, reptiles, amphibians, and fur-bearing animals propagated or held in captivity by authority of a noncommercial propagating license are for the licensee's own use and shall not be sold. The fee for such a license is ten dollars per annum.

(C) A free "raise to release license" permitting duly organized clubs, associations, or individuals approved by the division to engage in the raising of game birds, game quadrupeds, or fur-bearing animals for release only and not for sale or personal use.

Except as provided by law, no person shall possess game birds, game quadrupeds, or fur-bearing animals in closed season, provided that municipal or governmental zoological parks ~~shall~~ are not ~~be~~ required to obtain the licenses provided for in this section.

All licenses issued under this section shall expire on the fifteenth day of March of each year.

The chief of the division of wildlife shall pay all moneys received as fees for the issuance of ~~such~~ licenses under this section into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code for the use of the division in the purchase, preservation, and protection of wild animals; and for the necessary clerical help and forms required by sections 1533.70 to 1533.80 of the Revised Code.

This section does not authorize the taking or the release for taking of the following:

(1) Game birds, without first obtaining a commercial bird shooting preserve license issued under section 1533.72 of the Revised Code;

(2) Game or nonnative wildlife, without first obtaining a wild animal hunting preserve license issued under section 1533.721 of the Revised Code.

Sec. 1533.74. No game birds, game quadrupeds, or fur-bearing animals, ~~or nonnative wildlife~~ shall be sold for food unless the carcass of each game bird, game quadruped, or fur-bearing animal, ~~or nonnative wildlife~~ is tagged with a suitable tag or seal supplied by the division of wildlife. Game birds, game quadrupeds, and fur-bearing animals, ~~and nonnative wildlife~~ so killed and tagged may be possessed, bought, or sold at any time. Common carriers shall receive and transport game birds, game quadrupeds, and fur-bearing animals, ~~and nonnative wildlife~~ so tagged, but to every package containing them shall be affixed a tag or label upon which shall be plainly printed or written the name of the person to whom the license was issued, the name of the person to whom they are to be transported, the number of game birds, game quadrupeds, or fur-bearing animals, ~~or nonnative wildlife~~ contained in the package, and a statement to the effect that they were killed and tagged in accordance with sections 1533.70 to 1533.80 of the Revised Code.

The chief of the division of wildlife may adopt rules under section 1531.10 of the Revised Code necessary to administer this section.

This section and rules adopted pursuant to it do not apply to meat that has been inspected by the department of agriculture under Chapter 918. Of the Revised Code and rules adopted under it and that has been marked with an official inspection mark, stamp, or brand pursuant to that inspection.

Sec. 1533.82. (A) On receipt of a notice pursuant to section 2301.373 of the Revised Code, the chief of the division of wildlife shall comply with that section with respect to a license ~~or~~, permit, or certificate issued pursuant to section 1533.23, 1533.34, 1533.342, 1533.39, 1533.40, 1533.51, 1533.631, 1533.71, 1533.72, ~~or~~ 1533.81, 1533.88, or 1533.881 of the Revised Code.

(B) On receipt of a notice pursuant to section 2301.375 of the Revised Code, the chief ~~of the division of wildlife~~ shall comply with that section with respect to a license, permit, or stamp issued pursuant to section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the Revised Code.

Sec. ~~1518.20~~ 1533.86. As used in sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code:

(A) "Ginseng" means the plant *Panax quinquefolius* L., also known as *Panax quinquefolium* L., commonly known as American ginseng.

(B) "Wild ginseng" means ginseng that grows in an uncultivated state and in its natural habitat; whether the plant occurs naturally from that habitat or was introduced or increased in abundance by sowing ginseng seed or

nsplanting ginseng plants from other areas and performing no other cultivation practices.

(C) "Cultivated ginseng" means ginseng that grows or has been grown in tilled beds under the shade of artificial structures or natural shade and is cultivated according to standard ginseng horticultural practices.

(D) "Harvest" means to cut, pick, dig, root up, gather, or otherwise collect ginseng.

(E) "Person" includes any legal entity defined as a person under section 1.59 of the Revised Code and any political subdivision, instrumentality, or agency of this state, another state, or the United States.

(F) "Collector" means a person who harvests ginseng.

(G) "Grower" means a person who grows cultivated ginseng.

(H) "Dealer" means a person who buys or otherwise acquires or conveys ginseng for resale.

(I) "Buy" includes trade or barter.

(J) "Sell" includes trade or barter.

Sec. ~~1518.21~~ 1533.87. There is hereby established in the department of natural resources the Ohio ginseng management program, which shall be administered by the chief of the division of ~~natural areas and preserves~~ wildlife. The program shall be administered to achieve and maintain a sustained yield of ginseng so that harvesting of the plant is not detrimental to the survival of the species. The chief shall do all things necessary to regulate the harvesting of wild ginseng and the buying, possession, transportation, sale, offering for sale, or exposure for sale of wild or cultivated ginseng.

Sec. ~~1518.22~~ 1533.88. The chief of the division of ~~natural areas and preserves~~ wildlife shall adopt ~~and may amend or rescind~~ rules ~~in accordance with Chapter 119.~~ under section 1531.10 of the Revised Code as necessary to carry out the purposes of sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code, including, but not limited to:

(A) Establishing a harvest season for wild ginseng;

(B) Establishing a certification program for all legally harvested ginseng ~~that is to be exported from the state or is bought or sold outside the buying season~~, including setting a certification fee;

(C) Establishing a buying season for ginseng that has not yet been certified in accordance with rules adopted under division (B) of this section;

(D) Establishing a registration permit system to authorize ginseng dealers to buy or otherwise acquire or convey ginseng for resale and export;

(E) Establishing a record system to be kept by collectors, dealers, and growers of ginseng;

(F) Developing educational materials about ginseng, ginseng regulation, and the Ohio ginseng management program.

Sec. ~~1518.23~~ 1533.881. No person shall buy or otherwise acquire or convey ginseng for resale or export without a registration permit issued annually by the chief of the division of ~~natural areas and preserves~~ wildlife in accordance with rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code. In addition to any other penalty, the chief may refuse to issue a permit to or suspend the permit of any person who fails to comply with sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code or rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code. ~~A person denied a permit is entitled to a hearing in accordance with Chapter 119. of the Revised Code. A person whose permit is to be suspended shall be afforded the opportunity for a hearing under Chapter 119. of the Revised Code prior to the final decision to suspend his permit.~~

Sec. ~~1518.24~~ 1533.882. No person shall do any of the following:

(A) Without written authorization from the chief of the division of ~~natural areas and preserves~~ wildlife, harvest wild ginseng except during the harvesting season as established by rule ~~under~~ adopted pursuant to section ~~1518.22~~ 1533.88 of the Revised Code;

(B) Without first obtaining written permission from the person entitled to the ginseng, willfully destroy, injure, or harvest ginseng that is the property of that person, ~~except that wild ginseng may be harvested on public property when the public entity that is responsible for the property has authorized permission to harvest wild ginseng;~~

(C) Ship or otherwise transport out of state ginseng that has not been certified in accordance with rules adopted ~~under~~ pursuant to division (B) of section ~~1518.22~~ 1533.88 of the Revised Code;

(D) Except during the buying season as established by rule ~~under~~ adopted pursuant to section ~~1518.22~~ 1533.88 of the Revised Code, buy, otherwise acquire, or sell uncertified ginseng;

(E) Fail to keep records as established by rule ~~under~~ adopted pursuant to section ~~1518.22~~ 1533.88 of the Revised Code;

(F) Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;

(G) Knowingly provide incorrect or false information on or in any permit application, report, export certificate, or other document required by rules adopted ~~under~~ pursuant to section ~~1518.22~~ 1533.88 of the Revised Code;

(H) Violate any provision of sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code or rules adopted ~~under~~ pursuant to section

~~1518.22~~ 1533.88 of the Revised Code.

Sec. ~~1518.25~~ 1533.89. Any sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, township constable, park, preserve, or forest officer, conservancy district police officer, or other law enforcement officer, within the limits of ~~his~~ the officer's jurisdiction, may enforce sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code and rules adopted under pursuant to section ~~1518.22~~ 1533.88 of the Revised Code, and any ~~preserve or~~ wildlife officer may enforce those sections and rules throughout the state.

Sec. ~~1518.26~~ 1533.891. The chief of the division of ~~natural areas and preserves~~ wildlife shall seize any ginseng harvested or acquired in violation of any provision of sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code or rules adopted under pursuant to section ~~1518.22~~ 1533.88 of the Revised Code. Ginseng so seized is forfeited to the state, to be disposed of as directed by the chief.

Sec. ~~1518.27~~ 1533.90. Unless otherwise directed by the director of natural resources, all ~~fee~~ fees, fines, penalties, and forfeitures arising from prosecutions, convictions, confiscations, or other actions taken under sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code shall be paid into the state treasury to the credit of the ~~ginseng management program~~ wildlife fund, which is hereby created under section 1531.17 Of the Revised Code, to be used for the administration of sections ~~1518.20~~ 1533.86 to ~~1518.27~~ 1533.90 of the Revised Code.

Sec. 1533.99. (A) Whoever violates section 1533.17 of the Revised Code is guilty of a misdemeanor of the third degree on a first offense and a misdemeanor of the second degree on each subsequent offense. In addition to any other sanction imposed under this division, on a second or subsequent offense occurring within a period of three consecutive years after the date of conviction of the immediately preceding violation of that section any firearms or other hunting implements in the possession or under the control of the offender at the time of the violation are subject to seizure in accordance with section 1531.20 of the Revised Code. If the offender persists in the offense after reasonable warning or request to desist, the offender is guilty of a misdemeanor of the second degree.

(B) Whoever violates section 1533.161, 1533.23, 1533.24, 1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511, 1533.55, 1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71, 1533.72, 1533.73, 1533.74, 1533.75, 1533.76, 1533.77, 1533.78, 1533.79, or 1533.80, division (F) of section 1533.731, or division (B) or (C) of section 1533.97 of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates division (B) of section 1533.03, section 1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 1533.51, 1533.63, 1533.64, 1533.67, 1533.68, ~~or~~ 1533.721, 1533.881, or 1533.882, division (B)(2) or (3) of section 1533.731, or division (A) of section 1533.97 of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates division (D) of section 1533.97 of the Revised Code is guilty of a misdemeanor of the fourth degree. The court shall require any person who is convicted of or pleads guilty to the offense to refund to all participants in the fishing tournament operated by the person any entry fees paid by the participants.

(E) Whoever violates division (C) or (D) of section 1533.632 of the Revised Code is guilty of a felony of the fifth degree.

(F) Whoever violates any section of this chapter for which no penalty is otherwise provided is guilty of a misdemeanor of the fourth degree.

(G) A court that imposes sentence for a violation of any section of this chapter governing the holding, taking, or possession of wild animals shall require the person who is convicted of or pleads guilty to the offense, in addition to any fine, term of imprisonment, seizure, and forfeiture imposed, to make restitution for the minimum value of the wild animal or animals illegally held, taken, or possessed as established under section 1531.201 of the Revised Code. An officer who collects moneys paid as restitution under this section shall pay those moneys to the treasurer of state who shall deposit them in the state treasury to the credit of the wildlife fund established under section 1531.17 of the Revised Code.

Sec. 1541.03. All lands and waters dedicated and set apart for state park purposes shall be under the control and management of the division of parks and recreation, which shall protect, maintain, and keep them in repair. The division shall have the following powers over all such lands and waters:

(A) To make alterations and improvements;

(B) To construct and maintain dikes, wharves, landings, docks, dams, and other works;

(C) To construct and maintain ~~such~~ roads and drives in, around, upon, and to ~~such the~~ lands and waters ~~as shall to~~ make them conveniently accessible and useful to the public;

(D) To adopt, ~~repeal~~ amend, and ~~amend~~ rescind, in accordance with ~~sections 119.01 to 119.13~~ Chapter 119, of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent ~~thereto~~ to them under its jurisdiction and control, including the following:

(1) Governing opening and closing times and dates of ~~such the~~ parks;

(2) Establishing fees and charges for admission to state parks and for use of facilities ~~therein in them~~;

(3) Governing camps, camping, and fees ~~therefor~~ for camps and camping;

(4) Governing the application for and rental of ~~cabins~~, rental fees ~~therefor for~~, and the use of cabins;

(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking, on ~~such~~ those lands;

(6) ~~Uniform rules governing~~ Governing all advertising within state parks and the requirements for the operation of places selling tangible personal property and control of food service sales on lands and waters under the control of the division, which rules shall establish uniform requirements;

(7) Providing uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft, as those terms are defined in section 1547.01 of the Revised Code, over waters under the control of the division and establishing reasonable fees for the construction of and annual use permits for those structures and devices;

(8) Governing state beaches, swimming, inflatable devices, and fees ~~therefor for them~~;

(9) Governing the removal and disposition of any watercraft, rowboat, sailboat, or powercraft, as those terms are defined in section 1547.01 of the Revised Code, left unattended for more than seven days on any lands or waters under the control of the division;

(10) Governing the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason.

Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section ~~4503.101~~ 4503.41 of the Revised Code, shall be exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of ~~his~~ the resident's or veteran's disability as the chief of the division of parks and recreation prescribes by rule.

Every resident of this state who is sixty-five years of age or older or

who is permanently and totally disabled and who furnishes evidence of ~~such~~ that age or disability in a manner prescribed by division rule shall be charged one-half of the regular fee for camping, except on the ~~week-ends~~ weekends and holidays designated by the division. ~~No such~~ Such a person shall not be charged more than ninety per cent of the regular charges for state recreational facilities, equipment, services, and food service operations utilized by ~~him~~ the person at any time of year, whether maintained or operated by the state or leased for operation by another entity.

As used in this section, "food service operations" means restaurants ~~which~~ that are owned by the department of natural resources at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state parks; or are part of a state park lodge. ~~It~~ "Food service operations" does not include automatic vending machines, concession stands, or snack bars.

As used in this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States. Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state is exempt from the fees for camping. To claim this exemption, the person shall present written evidence in the form of a record of separation, a letter from one of the military forces of the United States, or such other evidence as the chief prescribes by rule that satisfies the eligibility criteria established by this section ~~for this exemption~~.

Sec. 1541.10. Any person selected by the chief of the division of parks and recreation for custodial or patrol service on the lands and waters operated or administered by the division of parks and recreation shall be employed in conformity with the law applicable to the classified civil service of the state. Subject to section 1541.11 of the Revised Code, the chief may designate that person as a park officer. A park officer ~~has~~, on any lands and waters owned, controlled, maintained, or administered by the department of natural resources and on ~~roadways~~ highways, as defined in section 4511.01 Of the Revised Code, adjacent to lands and waters owned, controlled, maintained, or administered by the division ~~of parks and recreation~~, has the authority ~~vested in police officers specified~~ under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and ~~all~~ rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that ~~such~~ the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an

enforcement officer of that division in an emergency. A park officer, in or along any watercourse within, abutting, or upstream from the boundary of any area administered by the department, has the authority to enforce section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters and to make arrests for violation of those laws. The jurisdiction of park officers shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs. A state park, for purposes of this section, is any area that is administered as a state park by the division of parks and recreation.

The governor, upon the recommendation of the chief, shall issue to each park officer a commission indicating authority to make arrests as provided in this section.

The chief shall furnish a suitable badge to each commissioned park officer as evidence of that park officer's authority.

If any person employed under this section is designated by the chief to act as an agent of the state in the collection of ~~money~~ moneys resulting from the sale of licenses, fees of any nature, or other moneys belonging to the state, the chief shall require a surety bond from that person in an amount not less than one thousand dollars.

A park officer may render assistance to a state or local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency.

Park officers serving outside the division of parks and recreation under this section or serving under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

Park officers serving outside the division of parks and recreation under this section or under a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses park officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any park officer acting under this section or under a mutual aid compact.

Sec. 1547.01. (A) As used in sections 1541.03, 1547.25, 1547.26, 1547.39, 1547.40, 1547.53, 1547.54, 1547.541, 1547.542, 1547.543, 1547.56, 1547.57, 1547.66, 3733.21, and 5311.01 of the Revised Code, "watercraft" means any of the following when used or capable of being used for transportation on the water:

- (1) A ~~boat~~ vessel operated by machinery either permanently or temporarily affixed;
- (2) A sailboat other than a sailboard;
- (3) An inflatable, manually propelled boat having a hull identification number meeting the requirements of the United States coast guard;
- (4) A canoe or ~~row-boat~~ rowboat.

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code.

Watercraft subject to section 1547.54 of the Revised Code shall be divided into five classes as follows:

- Class A: Less than sixteen feet in length;
- Class 1: At least sixteen feet, but less than twenty-six feet in length;
- Class 2: At least twenty-six feet, but less than forty feet in length;
- Class 3: At least forty feet, but less than sixty-five feet in length;
- Class 4: At least sixty-five feet in length.

(B) As used in this chapter:

(1) "Vessel" includes every description of watercraft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(2) "Rowboat" means any vessel designed to be rowed and that is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel.

(3) "Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.

(a) Any sailboat equipped with an inboard engine is deemed a powercraft with auxiliary sail.

(b) Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power.

(c) Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation.

(4) "Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device.

(5) "Person" includes any legal entity defined as a person in section 1.59

of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof.

(6) "Owner" includes any person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to that possession.

(7) "Operator" includes any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state.

(8) "Visible" means visible on a dark night with clear atmosphere.

(9) "Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating.

(10) "Navigable waters" means waters that come under the jurisdiction of the department of the army of the United States and any waterways within or adjacent to this state, except inland lakes having neither a navigable inlet nor outlet.

(11) "In operation" in reference to a vessel means that the vessel is being navigated or otherwise used on the waters in this state.

(12) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(13) "Canoe" means a narrow vessel of shallow draft, pointed at both ends and propelled by human muscular effort, and includes kayaks.

(14) "Coast guard approved" means bearing an approval number assigned by the United States coast guard.

(15) "Type one personal flotation device" means a device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

(16) "Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(17) "Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(18) "Type four personal flotation device" means a device that is

designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

(19) "Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, all of the following:

(a) The approval label on the type five personal flotation device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a personal flotation device of the type required on the vessel in use;

(b) The personal flotation device is used in accordance with any requirements on the approval label;

(c) The personal flotation device is used in accordance with requirements in its owner's manual if the approval label refers to such a manual.

(20) "Inflatable watercraft" means any vessel constructed of rubber, canvas, or other material that is designed to be inflated with any gaseous substance, constructed with two or more air cells, and operated as a vessel. Inflatable watercraft propelled by a motor shall be classified as powercraft and shall be registered by length.

(21) "Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability.

(22) "Diver's flag" means a red flag not less than one foot square having a diagonal white stripe extending from the masthead to the opposite lower corner that when displayed indicates that divers are in the water.

(23) "Muffler" means an acoustical suppression device or system that is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

(24) "Law enforcement vessel" means any vessel used in law enforcement and under the command of a law enforcement officer.

(25) "Personal watercraft" means a vessel, less than sixteen feet in length, that is propelled by machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

(26) "No wake" has the same meaning as "idle speed."

(C) Unless otherwise provided, this chapter applies to all vessels operating on the waters in this state. Nothing in this chapter shall be construed in contravention of any valid federal act or ~~rule~~ regulation, but is in addition to the act or ~~rule~~ regulation where not inconsistent.

The state reserves to itself the exclusive right to regulate the minimum

equipment requirements of watercraft and vessels operated on the waters in this state.

Sec. 1547.03. No person shall install or use any intermittently flashing light of any type or color on any vessel in use or operation on the waters in this state, ~~except that such flashing lights may be installed and used in an emergency to attract attention to such an emergency for aid and relief of the distressed, and except that a blue revolving or flashing horizontal beam located at any effective point on the vessel may be displayed by authorized patrol boats when engaged in law enforcement duties day or night on waters in this state in accordance with federal law.~~

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.04. No person, except an authorized watercraft representative of the federal government, the state, or any of its political subdivisions shall use or operate a siren on the waters in this state except for emergency purposes.

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.08. (A) No person shall operate a vessel within or through a designated bathing area or within or through any area that has been buoyed off designating it as an area in which vessels are prohibited.

(B)(1) No person shall operate a vessel at greater than idle speed or at a speed that creates a wake within three hundred feet of any marina, boat docking facility, boat gasoline dock, launch ramp, recreational boat harbor, or harbor entrance, or during the period from sunset to sunrise according to local time within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio river for any vessel not documented by the United States coast guard as commercial, or within any area buoyed or marked as a no wake area.

(2) Division (B)(1) of this section does not apply in any of the following places:

(a) The Muskingum river unless the river is marked by a buoy or sign as a no wake or idle speed area;

(b) Any other area designated by the chief of the division of watercraft unless it is marked by a buoy or sign as a no wake or idle speed area;

(c) Within any water between the Dan Beard bridge and the Brent Spence bridge on the Ohio river when the United States coast guard has authorized the holding of a special event of a community nature on that water.

(C) No person shall operate a vessel in any area of restricted or

controlled operation in violation of the designated restriction.

(D) No person shall operate a vessel within three hundred feet of an official diver's flag unless ~~he~~ the person is tendering the diving operation.

(E) All areas of restricted or controlled operation as described in division (A) of this section or as provided for in section 1547.14 or 1547.61 of the Revised Code shall be marked by a buoy or sign designating the restriction. All waters surrounded by or lying between such a buoy or sign and the closest shoreline are thereby designated as an area in which the designated restrictions shall apply in the operation of any vessel.

Markings on buoys designating areas of restricted or controlled operation shall be so spaced as to show all around the horizon. Lineal spacing between the buoys shall be such that under normal conditions of visibility any buoy shall be readily visible from the next adjacent buoy. No colors or symbols, except as provided for in rules of the chief, shall be used on buoys or signs for marking closed or controlled areas of boating waters.

Any state department, conservancy district, or political subdivision having jurisdiction and control of impounded boating waters may place such buoys or signs on its waters. Any political subdivision may apply to the chief for permission to place such buoys or signs on other waters within its territorial limits. No person shall place or cause to be placed a regulatory buoy or sign on, into, or along the waters in this state unless the person has complied with all the provisions of this chapter.

(F) No person shall permit any vessel to be operated on the waters in this state in violation of this section.

Sec. 1547.09. No person shall moor or anchor any vessel in a designated speed zone or water ski zone. No person, unless in distress and no other vessel is endangered thereby, shall moor to, anchor to, or tie up to any marker, aid, buoy, light, or other aid to navigation.

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.111. (A) Any person who operates a vessel or uses any water skis, aquaplane, or similar device upon any waters in this state shall be deemed to have given consent to a chemical test or tests of ~~his~~ the person's blood, breath, or urine for the purpose of determining its alcohol or drug of abuse content if arrested for the offense of operating a vessel or using any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been operating a vessel or using any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code. The law

enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(B) Any person who is dead, unconscious, or ~~who is~~ otherwise in a condition rendering ~~him~~ the person incapable of refusal shall be deemed not to have withdrawn consent provided by division (A) of this section and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(C) Any person under arrest for the offense of operating a vessel or using any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code shall be advised of the consequences of ~~his refusal~~ refusing to submit to a chemical test designated by the law enforcement agency as provided in division (A) of this section. The advice shall be in a written form prescribed by the chief of the division of watercraft and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to ~~him~~ the person in the presence of the arresting officer and either another law enforcement officer, a civilian law enforcement employee, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses shall certify to this fact by signing the form.

(D) If a person under arrest for the offense of operating a vessel or using any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided in division (A) of this section, after first having been advised of the consequences of ~~his~~ the refusal as provided in division (C) of this section, no chemical test shall be given, but the chief ~~of the division of watercraft,~~ upon receipt of a sworn statement of the law enforcement officer that ~~he~~ the law enforcement officer had reasonable grounds to believe the arrested person had been operating a vessel or using any water skis, aquaplane, or similar device while under the influence of alcohol or a drug of abuse, under the combined influence of alcohol and a drug of abuse, or with a prohibited concentration of alcohol in ~~his~~ the person's blood, urine, or breath, and that the person refused to submit to the chemical test upon the request of the law enforcement officer, and upon receipt of the form as provided in division (C) of this section certifying that the arrested person was advised of the consequences of ~~his~~ the refusal, shall inform the person by written notice that ~~he~~ the person is prohibited from operating a vessel or using any water skis, aquaplane, or similar device, and is prohibited from registering any watercraft in accordance with section 1547.54 of the Revised Code, for one

year following the date of the alleged violation of section 1547.11 of the Revised Code. The suspension of these operation, use, and registration privileges shall continue for the entire one-year period, subject to review as provided in this section.

If the person under arrest is the owner of the vessel involved in the alleged violation, the law enforcement officer who arrested the person shall seize the watercraft registration certificate and tags from the vessel involved in the violation and forward them to the chief. The chief of the division of watercraft, in addition to informing ~~him~~ the person by written notice that ~~he~~ the person is prohibited from operating a vessel or using any water skis, aquaplane, or similar device, and from registering any watercraft in accordance with section 1547.54 of the Revised Code, for one year following the date of the alleged violation, shall retain the impounded registration certificate and tags, and shall impound the all other registration certificate certificates and tags issued to the person in accordance with sections 1547.54 and 1547.57 of the Revised Code, for a period of one year following the date of the alleged violation. ~~The registration certificate and tags may be impounded on the date of the alleged violation and such impoundment shall continue for the entire one-year period, subject to review as provided in this section.~~

If the arrested person fails to surrender the registration certificate because it is not on the person of the arrested person or in the watercraft, the law enforcement officer who made the arrest shall order the person to surrender it within twenty-four hours to the law enforcement officer or the law enforcement agency that employs the law enforcement officer. If the person fails to do so, the law enforcement officer shall notify the chief of that fact in the statement the officer submits to the chief under this division.

(E) Upon suspending a person's operation, use, and registration privileges in accordance with division (D) of this section, the chief ~~of the division of watercraft~~ shall notify the person in writing, at ~~his~~ the person's last known address, and inform ~~him~~ the person that ~~he~~ the person may petition for a hearing in accordance with division (F) of this section. If a person whose operation, use, and registration privileges have been suspended petitions for a hearing or appeals any decision that is adverse to ~~him~~ the person, the suspension of privileges shall begin at the termination of any hearing or appeal unless the hearing or appeal resulted in a decision favorable to the person.

(F) Any person who has been notified by the chief ~~of the division of watercraft~~ that ~~he~~ the person is prohibited from operating a vessel or using any water skis, aquaplane, or similar device; and from registering any

ercraft in accordance with section 1547.54 of the Revised Code, or who has had the registration certificate and tags of ~~his~~ the person's watercraft impounded pursuant to division (D) of this section, ~~may~~, within twenty days of the notification or impoundment, may file a petition in the municipal court or the county court, or ~~in case~~ if the person is a minor in juvenile court, in whose jurisdiction the arrest occurred, agreeing to pay the cost of the proceedings and alleging error in the action taken by the chief ~~of the division of watercraft~~ under division (D) of this section or alleging one or more of the matters within the scope of the hearing as provided in this section, or both. The petitioner shall notify the chief ~~of the division of watercraft~~ of the filing of the petition and send ~~him~~ the chief a copy of the petition.

The scope of the hearing is limited to the issues of whether the law enforcement officer had reasonable grounds to believe the petitioner was operating a vessel or using any water skis, aquaplane, or similar device while under the influence of alcohol or a drug of abuse, under the combined influence of alcohol and a drug of abuse, or with a prohibited concentration of alcohol or a drug of abuse in ~~his~~ the person's blood, urine, or breath, whether the petitioner was placed under arrest, whether the petitioner refused to submit to the chemical test upon request of the officer, and whether ~~he~~ the petitioner was advised of the consequences of ~~his~~ the refusal.

(G)(1) The chief ~~of the division of watercraft~~ shall furnish the court a copy of the affidavit as provided in division (C) of this section and any other relevant information requested by the court.

(2) In hearing the matter and in determining whether the person has shown error in the decision taken by the chief ~~of the division of watercraft~~ as provided in division (D) of this section, the court shall decide the issue upon the relevant, competent, and material evidence submitted by the chief ~~of the division of watercraft~~ or the person whose operation, use, and registration privileges have been suspended.

In the proceedings, the chief shall be represented by the prosecuting attorney of the county in which the petition is filed if the petition is filed in a county court or juvenile court, except that if the arrest occurred within a city or village within the jurisdiction of the county court in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the chief. If the petition is filed in the municipal court, the chief shall be represented as provided in section 1901.34 of the Revised Code.

(3) If the court finds from the evidence submitted that the person has failed to show error in the action taken by the chief ~~of the division of watercraft~~ under division (D) of this section or in one or more of the matters

within the scope of the hearing as provided in division (F) of this section, or both, ~~then~~ the court shall assess the cost of the proceeding against the person and shall uphold the suspension of the operation, use, and registration privileges provided in division (D) of this section. If the court finds that the person has shown error in the action taken by the chief ~~of the division of watercraft~~ under division (D) of this section or in one or more of the matters within the scope of the hearing as provided in division (F) of this section, or both, the cost of the proceedings shall be paid out of the county treasury of the county in which the proceedings were held, the operation, use, and registration privileges of the person shall be reinstated without charge, and the registration certificate and tags, if impounded, shall be returned without charge.

(4) The court shall give information in writing of any action taken under this section to the chief ~~of the division of watercraft~~.

(H) At the end of any period of suspension or impoundment imposed under this section, and upon request of the person whose operation, use, and registration privileges were suspended or whose registration certificate and tags were impounded, the chief ~~of the division of watercraft~~ shall reinstate the person's operation, use, and registration privileges by written notice and return the certificate and tags.

(I) No person who has received written notice from the chief ~~of the division of watercraft~~ that ~~he~~ the person is prohibited from operating a vessel or using any water skis, aquaplane, or similar device, and from registering a watercraft, or who has had the registration certificate and tags of ~~his~~ the person's watercraft impounded, in accordance with division (D) of this section, shall operate a vessel or use any water skis, aquaplane, or similar device for a period of one year following the date of ~~his~~ the person's alleged violation of section 1547.11 of the Revised Code.

Sec. 1547.12. No person shall operate any vessel if the person is so mentally or physically incapacitated as to be unable to operate the vessel in a safe and competent manner.

No person shall permit any vessel to be operated on the waters in this state in violation of this section.

Sec. 1547.13. (A) No person shall fail to comply with any lawful order or direction of any law enforcement officer having authority to direct, control, or regulate the operation or use of vessels.

(B) No person shall operate any vessel so as to purposely elude or flee from a law enforcement officer after receiving a visible or audible signal from a law enforcement officer to bring the vessel to a stop.

(C) No person shall operate or permit to be operated any vessel on the

waters in this state in violation of this section.

Sec. 1547.131. Upon the approach of a law enforcement vessel with at least one ~~blue~~ flashing, rotating, or oscillating light of a color conforming with the requirements of federal law, the operator of any vessel shall stop if followed or give way in any crossing, head-on, or overtaking situation; and shall remain in ~~such~~ that position until the law enforcement vessel has passed, except when otherwise directed by a law enforcement officer. If traffic conditions warrant, a siren or other sound producing device also may be operated as an additional signaling device. This section does not relieve the operator of any law enforcement vessel from the duty to operate with due regard for the safety of all persons and property on the waters in this state.

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.14. (A) Except on the waters of Lake Erie, the Ohio River, and immediately connected harbors and anchorage facilities, any person who rides or attempts to ride upon one or more water skis, surfboard, or similar device, or who engages or attempts to engage in barefoot skiing, and any person who operates a vessel towing a person riding or attempting to ride on one or more water skis, surfboard, or similar device, or engaging or attempting to engage in barefoot skiing, shall confine that activity to the water area within a designated ski zone on all bodies of water ~~whereon~~ on which a ski zone has been established.

(B) On all bodies of water designated as "open zone," that is, having a combined speed and ski zone, the activities described in division (A) of this section shall be confined to the open zone.

(C) No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.15. Any person who ~~operates~~ OPERATES a vessel towing any person riding or attempting to ride upon one or more water skis; or upon a surfboard; or similar device, or engaging or attempting to engage in barefoot skiing, on the waters in this state shall have present in the vessel a person or persons other than the operator, ten years of age or older, who shall at all times observe the progress of the person being towed. The operator of the towing vessel shall at all times observe the traffic pattern toward which the vessel is approaching.

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.22. No occupant of any vessel underway on the waters in this state shall sit, stand, or walk upon any portion of the vessel not specifically

designed for that movement, except when immediately necessary for the safe and reasonable navigation or operation of the vessel. No operator of a vessel under way on the waters in this state shall allow any occupant of the vessel to sit, stand, or walk on any portion of the vessel underway not specifically designed for that use, except when immediately necessary for the safe and reasonable navigation or operation of the vessel.

No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.25. (A) No person shall operate or permit to be operated any watercraft, other than a commercial vessel, on the waters in this state:

(1) ~~Sixteen~~ That is sixteen feet or greater in length without carrying aboard one type one, two, or three personal flotation device for each person aboard and one type four personal flotation device;

(2) ~~Less~~ That is less than sixteen feet in length, including canoes and kayaks of any length, without carrying aboard one type one, two, or three personal flotation device for each person aboard.

(B) A type five personal flotation device may be carried in lieu of a type one, two, or three personal flotation device required under division (A) of this section.

(C) No person shall operate or permit to be operated any commercial vessel on the waters in this state:

(1) That is less than forty feet in length and is not carrying persons for hire without carrying aboard at least one type one, two, or three personal flotation device for each person aboard;

(2) That is carrying persons for hire or is forty feet in length or longer and is not carrying persons for hire without carrying aboard at least one type one personal flotation device for each person aboard;

(3) That is twenty-six feet in length or longer without carrying aboard at least one type four ring life buoy in addition to the applicable requirements of divisions (C)(1) and (2) of this section.

(D) Each personal flotation device carried aboard a watercraft or commercial vessel pursuant to this section shall be coast guard approved and in good and serviceable condition, of appropriate size for the wearer, and readily accessible to each person aboard the watercraft at all times.

(E) As used in this section, "commercial vessel" means any vessel used in the carriage of any person or property for a valuable consideration whether flowing directly or indirectly from the owner, partner, or agent or any other person interested in the vessel. "Commercial vessel" does not include any vessel that is manufactured or used primarily for noncommercial use or that is leased, rented, or chartered to another for

noncommercial use.

Sec. 1547.251. (A) No person shall operate on the waters of Lake Erie or the immediately connecting bays, harbors, and anchorage areas at any time a vessel:

~~(1) Sixteen~~ That is sixteen or more feet in length or any vessel carrying six or fewer passengers for hire without carrying coast guard approved visual distress signals for both day and night use;

~~(2) Less than sixteen feet in length between sunset and sunrise without carrying coast guard approved distress signals for night use.~~

~~The distress signals required by this division shall be in good and serviceable condition, readily accessible, and of the type and quantities required by the "Federal Boat Safety Act of 1971," 85 Stat. 213, 46 U.S.C.A. 1451, as amended.~~

(B) No person shall operate upon the waters of Lake Erie or the immediately connecting bays, harbors, and anchorage areas during the period from sunset to sunrise according to local time any of the following without carrying coast guard approved visual distress signals for night use:

(1) A vessel less than sixteen feet in length;

(2) A vessel competing in an organized marine parade, race, regatta, or similar event;

(3) A manually propelled vessel;

(4) A sailboat less than twenty-six feet in length with completely open construction and without propulsion machinery.

(C) No person shall operate a vessel on the waters in this state other than Lake Erie or the immediately connecting bays, harbors, and anchorage areas unless the vessel carries either a distress flag at least two feet square and international orange in color or a coast guard approved daytime distress signal.

~~(C)(D)~~ (D) No person shall display any distress signal unless a vessel or a person is in distress and in need of help.

~~(D)(E)~~ (E) Divisions (A) and ~~(B)(C)~~ of this section do not apply to any of the following:

(1) Vessels competing in an organized marine parade, race, regatta, or similar event;

(2) Manually propelled vessels;

(3) Sailboats less than twenty-six feet in length with completely open construction and without propulsion machinery.

(F) The distress signals required by this section shall be in good and serviceable condition, readily accessible, and of the type and quantities required by regulations adopted under 46 U.S.C. 4302, as amended.

(G) No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

Sec. 1547.26. All watercraft, except sailboats less than sixteen feet long having a cockpit depth of less than twelve inches and except canoes, shall carry an anchor and line of sufficient weight and length to anchor the watercraft securely. The chief ~~may~~ of the division of watercraft, by rule, may exempt other types of watercraft from this section ~~if he determines after determining~~ that carrying such an anchor and line would constitute a hazard.

No person shall operate or permit to be operated any watercraft on the waters in this state in violation of this section.

Sec. 1547.30. (A) As used in this section and sections 1547.301, 1547.302, and 1547.304 of the Revised Code:

(1) "Vessel or outboard motor" excludes an abandoned junk vessel or outboard motor, as defined in section 1547.303 of the Revised Code, or any watercraft or outboard motor under section 4585.31 of the Revised Code.

(2) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, as defined in section 2901.01 of the Revised Code.

(B)(1) The sheriff of a county, chief of police of a municipal corporation, township, or township police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any vessel or outboard motor that has been left on private property, other than a private dock or mooring facility or structure, for at least seventy-two hours without the permission of the person having the right to the possession of the property. The sheriff or chief, upon complaint of the owner of a marine repair facility or place of storage, may order into storage any vessel or outboard motor that has been left at the facility or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief. When ordering a vessel or motor into storage under division (B)(1) of this section, a sheriff or chief, whenever possible, shall arrange for the removal of the vessel or motor by a private tow truck operator or towing company.

(2)(a) Except as provided in division (B)(2)(d) of this section, no person, without the consent of the owner or other person authorized to give consent, shall moor, anchor, or tie a vessel or outboard motor at a private dock or mooring facility or structure owned by another person if the owner has posted, in a conspicuous manner, a prohibition against the mooring, anchoring, or tying of vessels or outboard motors at the dock, facility, or structure by any person not having the consent of the owner or other person

authorized to give consent.

(b) If the owner of a private dock or mooring facility or structure has posted at the dock, facility, or structure, in a conspicuous manner, conditions and regulations under which the mooring, anchoring, or tying of vessels or outboard motors is permitted at the dock, facility, or structure, no person, except as provided in division (B)(2)(d) of this section, shall moor, anchor, or tie a vessel or outboard motor at the dock, facility, or structure in violation of the posted conditions and regulations.

(c) The owner of a private dock or mooring facility or structure may order towed into storage any vessel or outboard motor found moored, anchored, or tied in violation of division (B)(2)(a) or (b) of this section, provided that the owner of the dock, facility, or structure posts on it a sign that states that the dock, facility, or structure is private, is visible from all entrances to the dock, facility, or structure, and contains all of the following information:

(i) The information specified in division (B)(2)(a) or (b) of this section, as applicable;

(ii) A notice that violators will be towed and that violators are responsible for paying the cost of the towing;

(iii) The telephone number of the person from whom a towed vessel or outboard motor may be recovered, and the address of the place to which the vessel or outboard motor will be taken and the place from which it may be recovered.

(d) Divisions (B)(2)(a) and (b) of this section do not prohibit a person from mooring, anchoring, or tying a vessel or outboard motor at a private dock or mooring facility or structure if either of the following applies:

(i) The vessel or outboard motor is disabled due to a mechanical or structural malfunction, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the malfunction is corrected or when a reasonable attempt has been made to correct it;

(ii) Weather conditions are creating an imminent threat to safe operation of the vessel or outboard motor, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the weather conditions permit safe operation of the vessel or outboard motor.

(e) A person whose vessel or outboard motor is towed into storage under division (B)(2)(c) of this section either shall pay the costs of the towing of the vessel or outboard motor or shall reimburse the owner of the dock or mooring facility or structure for the costs that the owner incurs in

towing the vessel or outboard motor.

(3) Subject to division (C) of this section, the owner of a vessel or motor that has been removed under division (B) of this section may recover the vessel or motor only in accordance with division (F) of this section.

(C) If the owner or operator of a vessel or outboard motor that has been ordered into storage under division (B) of this section arrives after the vessel or motor has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of vessels or motors under division (B) of this section that normally is assessed by the person who has prepared the vessel or motor for removal, in order to obtain release of the vessel or motor. Upon payment of that fee, the vessel or motor shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that it is not on the private property without the permission of the person having the right to possession of the property, or is not at the facility or place of storage without the permission of the owner, whichever is applicable.

(D) Each county sheriff, each chief of police of a municipal corporation, township, or township police district, and each other chief of a law enforcement agency shall maintain a record of vessels or outboard motors that are ordered into storage under division (B)(1) of this section. The record shall include an entry for each such vessel or motor that identifies the vessel's hull identification number or serial number, if any, the vessel's or motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular vessel or motor shall be provided to any person who, pursuant to a statement the person makes either in person or by telephone, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(E) Any person who registers a complaint that is the basis of a sheriff's or chief's order for the removal and storage of a vessel or outboard motor under division (B)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who, pursuant to a statement the person makes, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(F)(1) The owner of a vessel or outboard motor that is ordered into storage under division (B) of this section may reclaim it upon payment of

any expenses or charges incurred in its removal, in an amount not to exceed two hundred dollars, and storage, in an amount not to exceed five dollars per twenty-four-hour period, and upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vessel or motor, certificate of United States coast guard documentation, or certificate of registration if the vessel or motor is not subject to titling under section 1548.01 of the Revised Code.

(2) If a vessel or outboard motor that is ordered into storage under division (B)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 1547.301 and 1547.302 of the Revised Code shall apply.

(3) If a vessel or outboard motor ordered into storage under division (B)(2) of this section remains unclaimed for seventy-two hours after being stored, the tow truck operator or towing company that removed the vessel or outboard motor shall provide notice of the removal and storage to the sheriff of a county, chief of police of a municipal corporation, township, or township police district, or other chief of a law enforcement agency within whose territorial jurisdiction the vessel or outboard motor had been moored, anchored, or tied in violation of division (B)(2) of this section. The notice shall be in writing and include the vessel's hull identification number or serial number, if any, the vessel's or outboard motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

Upon receipt of the notice, the sheriff or chief immediately shall cause a search to be made of the records of the division of watercraft to ascertain the owner and any lienholder of the vessel or outboard motor, and, if known, shall send notice to the owner and lienholder, if any, at the owner's and lienholder's last known address by certified mail, return receipt requested, that the vessel or outboard motor will be declared a nuisance and disposed of if not claimed not later than thirty days after the date of the mailing of the notice.

If the owner or lienholder makes no claim to the vessel or outboard motor within thirty days of the date of the mailing of the notice, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of division (F)(3) of this section, and the vessel or outboard motor shall be disposed of in accordance with section 1547.302 of the Revised Code.

(G) No person shall remove, or cause the removal of, any vessel or

outboard motor from private property other than in accordance with division (B) of this section or section 1547.301 of the Revised Code.

Sec. 1547.302. (A) Unclaimed vessels or outboard motors ordered into storage under division (B) of section 1547.30 or section 1547.301 of the Revised Code shall be disposed of at the order of the sheriff of the county, the chief of police of the municipal corporation, township, or township police district, or ~~other~~ another chief of a law enforcement agency ~~to~~ in any of the following ways:

(1) To a marine salvage dealer ~~or to~~;

(2) To any other facility owned, operated, or under contract with the state, or the county, municipal corporation, township, or other political subdivision, ~~or shall be sold~~;

(3) To a charitable organization, religious organization, or similar organization not used and operated for profit;

(4) By sale at public auction by the sheriff, ~~the~~ chief, or an auctioneer licensed under Chapter 4707. of the Revised Code, after giving notice thereof of the auction by advertisement, published once a week for two consecutive weeks in a newspaper of general circulation in the county. ~~Any~~

(B) Any moneys accruing from the disposition of an unclaimed vessel or motor that are in excess of the expenses resulting from the removal and storage of the vessel or motor shall be credited to the general revenue fund, or to the general fund of the county, municipal corporation, township, or other political subdivision, as appropriate.

(C) As used in this section, "charitable organization" has the same meaning as in section 1716.01 Of the Revised Code.

Sec. 1547.31. No person shall operate or permit to be operated on the waters in this state any powercraft without a muffler, underwater exhaust, or other device that muffles or suppresses the sound of the exhaust at all speeds.

This version of section 1547.31 Of the Revised Code is effective until repealed by Am. S. B. 295 of the 121st general assembly on December 31, 1999.

Sec. 1547.33. Except on the waters of Lake Erie, the Muskingum River, or the Ohio River, no person shall launch, moor, dock, use, ~~or operate,~~ or permit to be operated on any of the waters in this state any vessel that contains a sink, toilet, or sanitary system that is capable of discharging urine, fecal matter, contents of a chemical commode, kitchen wastes, laundry wastes, slop sink drainage, or other household wastes into the waters in this state. Such a sink, toilet, or sanitary system shall be removed ~~or,~~ sealed, or made to drain into a tank or reservoir that can be carried or

pumped ashore for disposal in a sewage treatment works approved by the director of environmental protection.

Sec. 1547.39. (A) No person ~~shall~~, after January 1, 1977, shall manufacture, sell, or offer for sale any watercraft propelled by machinery as its principal source of power, or watercraft designed to be manually propelled, less than twenty feet in length, and designed to carry two or more persons, manufactured after that date, unless a capacity plate containing the correct information, as prescribed by regulations adopted by the United States coast guard, is firmly attached to the watercraft. The capacity plate shall be attached in such a location that ~~the capacity plate~~ it is clearly legible from the position designed or intended to be occupied by the operator when the watercraft is underway.

(B) No person shall operate or permit to be operated on the waters in this state watercraft for which a capacity plate is required under this section unless the capacity plate is attached.

(C) No person shall alter, remove, or deface any information contained on the capacity plate unless the manufacturer has altered the watercraft in such a way that would require a change in the information contained on the capacity plate.

(D) As used in this section, "manufacture" means to construct or assemble a watercraft, or to alter a watercraft in such a manner as to affect or change its weight capacity or occupant capacity.

Sec. 1547.40. (A) No person shall operate or permit to be operated on the waters in this state a watercraft to which a capacity plate is attached; if the total load exceeds the weight capacity indicated on the capacity plate, if the number of persons aboard exceeds the occupant capacity indicated on the capacity plate, or if the horsepower of any attached outboard motor exceeds the maximum horsepower indicated on the capacity plate.

(B) When no capacity plate exists, no person shall operate or permit to be operated on the waters in this state a watercraft if a reasonably prudent person would believe that either of the following circumstances applies:

- (1) The total load aboard the watercraft has associated with it a risk of physical harm to persons or property;
- (2) The total horsepower of any inboard engine or attached outboard motor has associated with it a risk of physical harm to persons or property.

Sec. 1547.52. (A) The division of watercraft shall be administered by the chief of the division of watercraft. The chief may adopt, amend, and rescind:

- (1) Rules considered necessary by the chief to supplement the identification, operation, titling, use, registration, and numbering of

watercraft or vessels as provided in this chapter and Chapter 1548. of the Revised Code;

(2) Rules governing the navigation of vessels on waters in this state, including, but not limited to, rules regarding steering and sailing, the conduct of vessels in sight of one another or in restricted visibility, lights and shapes of lights used on vessels, and sound and light signals. As the chief considers necessary, these navigational rules shall be consistent with and equivalent to the ~~rules~~ regulations and interpretive rulings governing inland waters adopted or issued under the "Inland Navigational Rules Act of 1980," 94 Stat. 3415, 33 U.S.C.A. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 2073.

(3) Rules establishing fees and charges for all of the following:

(a) Boating skill development classes and other educational classes;

(b) Law enforcement services provided at special events when the services are in addition to normal enforcement duties;

(c) Inspections of vessels or motors conducted under this chapter or Chapter 1548. of the Revised Code.

All rules adopted by the chief under ~~this~~ division (A) of this section shall be adopted in accordance with Chapter 119. of the Revised Code; and ~~shall be~~ are subject to the prior approval of the director of natural resources.

(B) The chief, with the approval of the director ~~of natural resources~~, may employ such clerical and technical help as ~~he~~ the chief considers necessary.

(C) The chief may designate license agents with the approval of the director ~~of natural resources~~.

(D) The division is hereby designated as the agency to administer the Ohio boating safety program and allocated federal funds under, and the chief shall prepare and submit reports in such form as may be required by, the "Federal Boat Safety Act of 1971," 85 Stat. 222, 46 U.S.C.A. 1475(a)(6), as amended.

(E) The chief may sell any of the following:

(1) Items related to or that promote boating safety, including, but not limited to, pins, badges, books, bulletins, maps, publications, calendars, and other educational articles;

(2) Artifacts pertaining to boating;

(3) Confiscated or forfeited items;

(4) Surplus equipment.

Sec. 1547.521. (A) The law enforcement officers of the division of watercraft shall be known as "state watercraft officers." The chief of the division of watercraft and state watercraft officers:

(1) Shall develop and conduct educational programs in vessel safety, sanitation, and operation; and in other related subjects ~~which~~ that the chief considers appropriate or necessary;

(2) Shall enforce this chapter and Chapter 1548. of the Revised Code and rules adopted under them, and may enforce laws prohibiting the dumping of refuse, trash, or litter into the waters in this state and Chapters 2925. and 3719. of the Revised Code on all waters in the state;

(3) ~~Shall have, on~~ On any lands owned, controlled, maintained, or administered by the department of natural resources and on any waters in this state, ~~shall have~~ the authority ~~vested in police officers specified~~ under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that ~~such~~ the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an enforcement officer of that division in an emergency. The jurisdiction of state watercraft officers shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

(4) ~~May, for~~ For the purpose of enforcing the laws and rules ~~which~~ that they have the authority to enforce, may stop, board, and conduct a safety inspection of any vessel;

(5) May serve and execute any citation, summons, warrant, or other process issued with respect to any law that they have the authority to enforce.

(B) A state watercraft officer may render assistance to a state or local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency.

~~Watercraft~~ State watercraft officers serving outside the division of watercraft under this section or serving under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

~~Watercraft~~ State watercraft officers serving outside the division of watercraft under this section or under a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised

Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses state watercraft officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any state watercraft officer acting under this section or under a mutual aid compact.

Sec. 1547.531. (A) ~~Not~~ (1) Except as provided in division (A)(2) or (B) of this section, no person shall operate or give permission for the operation of any watercraft on the waters in this state unless the watercraft is registered in the name of the current owner in accordance with section 1547.54 of the Revised Code, and the registration is valid and in effect. If

(2) On and after January 1, 1999, if a titled watercraft or vessel documented by the United States coast guard that is required to be issued a certificate of title under Chapter 1548. Of the Revised Code is transferred to a new owner, it need not be registered under section 1547.54 Of the Revised Code for forty-five days following the date of the transfer, provided that the new owner purchases a temporary watercraft registration under division (A) of this section or holds a bill of sale from a watercraft dealer dated at the time of the transfer, a notarized paper evidencing the transfer and dated at the time of the transfer, or proof of application for transfer of documentation.

Watercraft For the purposes of division (A)(2) of this section, a temporary watercraft registration or a bill of sale from a watercraft dealer shall contain at least all of the following information:

- (a) The hull identification number or serial number of the watercraft;
- (b) The make of the watercraft;
- (c) The length of the watercraft;
- (d) The type of propulsion, if any;
- (e) The state in which the watercraft principally is operated;
- (f) The name of the owner;
- (g) The address of the owner, including the zip code;
- (h) The signature of the owner;
- (i) The date of purchase;
- (j) A notice to the owner that the temporary watercraft registration expires forty-five days after the date of purchase of the watercraft or that the watercraft cannot be operated on the waters in this state solely under the bill of sale beginning forty-five days after the date of purchase of the watercraft, as applicable.

(3) A person may purchase a temporary watercraft registration from the

chief of the division of watercraft or from an authorized agent designated under section 1547.54 of the Revised Code. The chief shall furnish forms for temporary watercraft registrations to authorized agents. In addition to completing the registration form with the information specified in divisions (A)(2)(a) to (i) of this section, the person shall pay one of the applicable fees required under divisions (A)(2)(a) to (f) of section 1547.54 Of the Revised Code as provided in that section.

Moneys received for the payment of temporary watercraft registrations shall be deposited to the credit of the waterways safety fund created in section 1547.75 of the Revised Code.

(4) In addition to the applicable fee required under division (A)(3) of this section, the chief or an authorized agent shall charge an additional fee of three dollars for a temporary watercraft registration that the chief or the authorized agent issues. When the temporary watercraft registration is issued by an authorized agent, the agent may retain the additional fee. When the temporary watercraft registration is issued by the chief, the additional fee shall be deposited to the credit of the waterways safety fund.

(5) A person who purchases a temporary watercraft registration for a watercraft and who subsequently applies for a registration certificate under section 1547.54 of the Revised Code need not pay the fee required under division (A)(2) of that section for the initial registration certificate issued for that watercraft, provided that at the time of application for the registration certificate, the person furnishes proof of payment for the temporary watercraft registration.

(6) A person who purchases a temporary watercraft registration, who subsequently applies for a registration certificate under section 1547.54 of the Revised Code, and who is exempt from payment for the registration certificate under division (O) of that section may apply to the chief for a refund of the amount paid for the temporary watercraft registration at the time that the person applies for a registration certificate. The chief shall refund that amount upon issuance to the person of a registration certificate.

(7) All records of the division of watercraft made or maintained for the purposes of divisions (A)(2) to (8) of this section are public records. The records shall be available for inspection at reasonable hours and in a manner that is compatible with normal operations of the division.

(8) Pursuant to division (A)(1) of section 1547.52 of the Revised Code, the chief may adopt rules establishing all of the following:

(a) Record-keeping requirements governing the issuance of temporary watercraft registrations and the use of bills of sale from watercraft dealers for the purposes of division (A)(2) of this section;

(b) Procedures and requirements for the refund of fees under division (A)(6) of this section;

(c) Any other procedures and requirements necessary for the administration and enforcement of divisions (A)(2) to (8) of this section.

(B) All of the following watercraft are exempt from registration are:

(1) Those that are exempt from numbering by the state under divisions (B) to (G) of section 1547.53 of the Revised Code;

(2) Those that have been issued a commercial documentation by the United States coast guard or its successor and are used exclusively for commercial purposes;

(3) Those that have been documented by the United States coast guard or its successor as temporarily transitting, whose principal use is not on the waters in this state, and that have not been used within this state for more than sixty days.

~~(B)~~(C) No person shall operate a watercraft documented by the United States coast guard or its successor unless the certificate of documentation is valid, is on the watercraft for which it has been issued, and is available for inspection whenever the watercraft is in operation. In accordance with 46 C.F.R. part 67, as amended, the watercraft shall display the official number, the vessel name, and the home port listed on the certificate of documentation.

~~(C)~~(D)(1) For the purposes of this section and section 1547.53 of the Revised Code, a watercraft is principally using the waters in this state if any of the following applies:

(a) The owner resides in this state and declares that the watercraft principally is using the waters in this state;

(b) The owner resides in another state; but declares that the watercraft principally is using the waters in this state;

(c) The watercraft is registered in another state or documented by the United States coast guard and is used within this state for more than sixty days regardless of whether it has been assigned a seasonal or permanent mooring at any public or private docking facility in this state.

(2) Notwithstanding division ~~(C)~~(D)(1)(c) of this section, a person on active duty in the armed forces of the United States may register a watercraft in ~~his~~ the person's state of permanent residence in lieu of registering it in this state regardless of the number of days that the watercraft is used in this state.

Sec. 1547.54. (A)(1) The owner of every watercraft requiring registration under this chapter shall file an application for a triennial registration certificate with the chief of the division of watercraft on forms that shall be provided by the chief. The application shall be signed by the

following:

(a) If the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2106.17 of the Revised Code, by both of those persons as owners of the watercraft;

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian;

(c) In all other cases, by the owner of the watercraft.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following ~~annual~~ fee:

(a) For canoes, kayaks, rowboats, and inflatable watercraft, ~~four~~ twelve dollars;

(b) For class A watercraft, including motorized canoes, ~~ten~~ thirty dollars;

(c) For class 1 watercraft, ~~fifteen~~ forty-five dollars;

(d) For class 2 watercraft, ~~twenty~~ sixty dollars;

(e) For class 3 watercraft, ~~twenty-five~~ seventy-five dollars;

(f) For class 4 watercraft, ~~thirty~~ ninety dollars.

(3) For the purpose of registration, any watercraft operated by means of power, sail, or any other mechanical or electrical means of propulsion, except motorized canoes, shall be registered by length as prescribed in this section.

(4) If an application for registration is filed by two persons as owners under division (A)(1)(a) of this section, the person who is listed first on the title shall serve as and perform the duties of the "owner" and shall be considered the person "in whose name the watercraft is registered" for purposes of divisions (B) to (P) of this section and for purposes of all other sections in this chapter.

(B) All registration certificates are valid for three years and are renewable on a triennial basis unless sooner terminated or discontinued in accordance with this chapter. The renewal date shall be printed on the registration certificate. A registration certificate may be renewed by the owner in the manner prescribed by the chief. All fees shall be charged according to a proration of the time remaining in the registration cycle to the nearest year.

(C) In addition to the fees set forth in this section, the chief, or any authorized agent, shall charge an additional fee of three dollars for any registration certificate the chief or authorized agent issues. When the registration certificate is issued by an authorized agent, the additional fee of three dollars shall be retained by the issuing agent. When the registration

certificate is issued by the chief, the additional fee of three dollars shall be deposited to the credit of the waterways safety fund established in section 1547.75 of the Revised Code.

(D) Upon receipt of the application in approved form, the chief shall enter the same upon the records of the office of the division, assign a number to the watercraft if a number is required under section 1547.53 of the Revised Code, and issue to the applicant a registration certificate. If a number is assigned by the chief, it shall be set forth on the certificate. The registration certificate shall be on the watercraft for which it is issued and available at all times for inspection whenever the watercraft is in operation, except that livery operators may retain the registration certificate at the livery where it shall remain available for inspection at all times.

(E) No person shall issue or be issued a registration certificate for a watercraft that is required to be issued a certificate of title under Chapter 1548. of the Revised Code except upon presentation of a certificate of title for the watercraft as provided in that chapter, proof of current documentation by the United States coast guard, a renewal registration form provided by the division of watercraft, or a certificate of registration issued under this section that has expired if there is no change in the ownership or description of the watercraft.

(F) Whenever the ownership of a watercraft changes, a new application form together with the prescribed fee shall be filed with the chief or the chief's agent and a new registration certificate shall be issued. The application shall be signed by the person or persons specified in division (A)(1)(a) to (c) of this section and shall be accompanied by a two-dollar transfer fee. Any remaining time on the registration shall be transferred. An authorized agent of the chief shall charge an additional fee of three dollars, which shall be retained by the issuing agent. If the certificate is issued by the chief, an additional fee of three dollars for each certificate issued shall be collected.

(G) If an agency of the United States has in force an overall system of identification numbering for watercraft or certain types of watercraft within the United States, the numbering system employed by the division shall be in conformity with that system.

(H) The chief may assign any registration certificates to any authorized agent for the assignment thereof. If a person accepts that authorization, the person may be assigned a block of numbers and certificates therefor that upon assignment, in conformity with this chapter and Chapter 1548. of the Revised Code and with rules of the division, shall be valid as if assigned directly by the division. Any person so designated as an agent by the chief

shall post with the division security as may be required by the director of natural resources. The chief may issue an order temporarily or permanently restricting or suspending an agent's authorization without a hearing if the chief finds that the agent has violated this chapter or Chapter 1548. of the Revised Code, rules adopted under them, or any agreements prescribed by the chief.

(I) All records of the division made or kept pursuant to this section shall be public records. Those records shall be available for inspection at reasonable hours and in a manner compatible with normal operations of the division.

(J) The owner shall furnish the division notice within fifteen days of the following:

(1) The transfer, other than through the creation of a security interest in any watercraft, of all or any part of the owner's interest or, if the watercraft is owned by two persons under joint ownership with right of survivorship established under section 2106.17 of the Revised Code, of all or any part of the joint interest of either of the two persons. The transfer shall not terminate the registration certificate.

(2) Any change in the address appearing on the certificate and, as a part of the notification, shall furnish the chief with the owner's new address;

(3) The destruction or abandonment of the watercraft.

(K) The chief may issue duplicate registration certificates or duplicate tags to owners of currently registered watercraft, the fee for which shall be four dollars.

(L) If the chief finds that a registration certificate previously issued to an owner is in error to a degree that would impair its basic purpose and use, the chief may issue a corrected certificate to the owner without charge.

(M) No authorized agent shall issue and no person shall receive or accept from an authorized agent a registration certificate assigned to the authorized agent under division (H) of this section unless the exact month, day, and year of issue are plainly written thereon by the agent. Certificates issued with incorrect dates of issue are void from the time they are issued.

(N) As used in this section:

(1) "Disabled veteran" means a person who is included in either of the following categories:

(a) Because of a service-connected disability, has been or is awarded funds for the purchase of a motor vehicle under the "Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970," 84 Stat. 1998, 38 U.S.C. 1901, and amendments thereto;

(b) Has a service-connected disability rated at one hundred per cent by

the veterans administration.

(2) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States at any time, and any regularly appointed, enrolled, or enlisted member of the military forces of Great Britain, France, Australia, Belgium, Brazil, Canada, China, Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, South Africa, or the republics formerly associated with the Union of Soviet Socialist Republics or Yugoslavia who was a citizen of the United States at the time of the appointment, enrollment, or enlistment, and was captured, separated, and incarcerated by an enemy of this country during World War II.

(O) Any disabled veteran, congressional medal of honor awardee, or prisoner of war may apply to the chief for a certificate of registration, or for a renewal of the certificate of registration, without the payment of any fee required by this section. The application for a certificate of registration shall be accompanied by evidence of disability or by documentary evidence in support of a congressional medal of honor that the chief requires by rule. The application for a certificate of registration by any person who has been a prisoner of war shall be accompanied by written evidence in the form of a record of separation, a letter from one of the armed forces of a country listed in division (N)(2) of this section, or other evidence that the chief may require by rule, that the person was honorably discharged or is currently residing in this state on active duty with one of the branches of the armed forces of the United States, or was a prisoner of war and was honorably discharged or received an equivalent discharge or release from one of the armed forces of a country listed in division (N)(2) of this section.

(P) Annually by the fifteenth day of January, the director of natural resources shall determine the amount of fees that would have been collected in the prior calendar year for each certificate of registration issued or renewed pursuant to division (O) of this section and shall certify the total amount of foregone revenue to the director of budget and management for reimbursement. The director of budget and management shall transfer the amount certified from the general revenue fund to the waterways safety fund created pursuant to section 1547.75 of the Revised Code.

Sec. 1547.542. Any person or organization owning any number of canoes, kayaks, rowboats, inflatable watercraft, or sailboats for the purpose of rental to the public may apply with the chief of the division of watercraft for and receive an annual certificate of livery registration. No watercraft shall be rented to the public from a livery or other place of business in this

state unless it ~~has~~ first has been numbered and registered in accordance with this section or section 1547.54 of the Revised Code. Certificates of livery registration shall be issued ~~only~~ by an authorized agent who is selected by the chief from among those designated under section 1547.54 of the Revised Code. The certificate shall ~~indicate~~ display the name of the owner of the livery, the date of issuance, the date of expiration, the number of watercraft registered, the fee paid, an authorized facsimile of the signature of the chief provided by the authorized agent who is selected to issue the certificate, and the signature of the livery owner. The certificate shall bear the livery watercraft registration number assigned to the livery owner, which shall be displayed in accordance with section 1547.57 of the Revised Code on each watercraft in the fleet for which the certificate was issued. The owner of a livery shall obtain an amended certificate of livery registration from the chief whenever the composition of the fleet changes.

The fee for each watercraft registered under this section shall be in accordance with the registration fees prescribed in section 1547.54 of the Revised Code. However, if the size of the fleet does not increase, the fee for an amended certificate of livery registration shall be the fee prescribed for issuing a duplicate registration certificate under section 1547.54 of the Revised Code, and the chief shall not refund to the livery owner all or any portion of an annual registration fee applicable to a watercraft transferred or abandoned by the livery owner. If the size of the fleet increases, the livery owner shall be required to pay the applicable annual registration fee for each watercraft registered under an amended certificate of livery registration that is in excess of the number of watercraft contained in the annual certificate of livery registration.

The certificate of livery registration, rental receipts, and required safety equipment are subject to inspection at any time at the livery's place of business by any authorized representative of the division of watercraft or any law enforcement officer in accordance with section 1547.63 of the Revised Code.

Except as provided in this section, all watercraft registered under this section are subject to this chapter and Chapter 1548. of the Revised Code.

The chief may issue an order temporarily or permanently restricting or suspending a livery certificate of registration and the privileges associated ~~therewith~~ with it without a hearing if ~~he~~ the chief finds that the holder of the certificate has violated this chapter.

Sec. 1547.543. (A) Any bona fide dealer in watercraft, or any manufacturer ~~thereof~~ of watercraft, upon annual application to the division of watercraft, may receive for each separate place of business a dealer or

manufacturer registration certificate assigning a dealer number for use while operating watercraft on the waters in this state. A dealer or manufacturer registration certificate shall not be used for any commercial purpose such as the rental or chartering of watercraft, nor shall the certificate be loaned to any person for the purpose of circumventing any law of this state.

The fee for such ~~license~~ a certificate shall be fifty dollars annually.

The chief of the division of watercraft shall select an authorized agent from among those designated under section 1547.54 of the Revised Code to issue dealer and manufacturer registration certificates. The agent shall provide an authorized facsimile of the signature of the chief on each registration certificate and on each pocket-sized certificate issued under this section.

(B) Registration certificates issued to marine dealers or manufacturers shall be available for inspection at all times at the dealers' or manufacturers' place of business for which the certificates were issued.

(C) The division ~~of watercraft~~ shall issue to each registered dealer or manufacturer one or more pocket-sized certificates bearing the dealer or manufacturer registration number, which shall be carried by the dealer, the manufacturer, or an employee aboard any watercraft being operated on the waters in this state.

(D) Each dealer in or manufacturer of watercraft shall display on both sides of any watercraft being operated on the waters in this state the dealer or manufacturer registration number and the validation decals assigned by the authorized agent selected by the chief under this section so that the decals and number are clearly visible under normal operating conditions. ~~The division~~ authorized agent selected by the chief shall furnish with each dealer or manufacturer registration certificate one or more sets of registration validation decals of a size and shape prescribed by the chief. Additional sets of decals may be purchased for a two-dollar fee.

(E) The chief may issue an order temporarily or permanently restricting or suspending a dealer or manufacturer registration certificate without a hearing if the chief finds that the holder of the certificate has violated this section.

Sec. 1547.57. When the chief of the division of watercraft issues a registration certificate under section 1547.54 of the Revised Code, ~~he~~ the chief also shall issue to the applicant two tags not larger than three inches square, color coded, indicating the expiration date of the certificate. The owner of watercraft currently documented by the United States coast guard and for which a registration certificate is issued shall securely affix one tag to the watercraft's port side and the other tag to the starboard side; so that the

tags are clearly visible under normal operating conditions. The tags shall be removed from the watercraft when they become invalid. The owner of any other watercraft for which a registration certificate is issued shall securely affix one tag to the watercraft's port side, six inches toward the stern from the identification number, and the other tag to the starboard side, six inches toward the stern from the identification number. The tags shall be securely affixed to the watercraft prior to its operation, but shall be removed from the watercraft when they become invalid. A person may operate without a registration certificate issued under section 1547.54 Of the Revised Code, for a period not to exceed ~~thirty~~ forty-five days, any watercraft required to be titled on the waters in this state; ~~if he has in his possession on the watercraft a dealer's dated bill of sale or, in the case of a casual sale, a notarized bill of sale~~ the person is in compliance with section 1547.531 Of the Revised Code.

The owner of every watercraft requiring numbering by this state shall attach to each side of the bow of the watercraft the permanent identification number in such manner as may be prescribed by applicable federal standards in order that it shall be clearly visible. The number shall be maintained in a legible condition at all times. No number other than the number assigned to a watercraft or granted by reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of the watercraft.

No person shall operate or permit to be operated any watercraft on the waters in this state in violation of this section.

Sec. 1547.69. (A) As used in this section:

(1) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(2) "Unloaded" has the same meaning as in section 2923.16 of the Revised Code.

(B) No person shall knowingly discharge a firearm while in or on a vessel.

(C) No person shall knowingly transport or have a loaded firearm in a vessel; in such a manner that the firearm is accessible to the operator or any passenger.

(D) No person shall knowingly transport or have a firearm in a vessel; unless it is unloaded and is carried in one of the following ways:

(1) In a closed package, box, or case;

(2) In plain sight with the action opened or the weapon stripped; or, if the firearm is of a type on which the action will not stay open or ~~which~~ that cannot easily be stripped, in plain sight.

(E) The affirmative ~~defense~~ defenses contained in divisions (C)(1) and (2) of section 2923.12 of the Revised Code are affirmative defenses to a charge under division (C) or (D) of this section.

(F) Divisions (B), (C), and (D) of this section do not apply to the possession or discharge of a United States coast guard approved signaling device required to be carried aboard a vessel under section 1547.251 of the Revised Code when the signaling device is possessed or used for the purpose of giving a visual distress signal. No person shall knowingly transport or possess any such signaling device in or on a vessel in a loaded condition at any time other than immediately prior to the discharge of the signaling device for the purpose of giving a visual distress signal.

(G) No person shall operate or permit to be operated any vessel on the waters in this state in violation of this section.

(H) This section does not apply to officers, agents, or employees of this or any other state or of the United States or to law enforcement officers when authorized to carry or have loaded or accessible firearms in a vessel and acting within the scope of their duties, nor to persons legally engaged in hunting.

Sec. 1548.01. (A) As used in this chapter, "watercraft" ~~means any of the following when used or capable of being used as a means of transportation on the water:~~

~~(1) A boat operated by machinery either permanently or temporarily affixed;~~

~~(2) A sailboat other than a sailboard;~~

~~(3) An inflatable, manually propelled boat having a hull identification number meeting the requirements of the United States coast guard.~~

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code has the same meaning as in section 1547.01 Of the Revised Code.

(B) This chapter does not apply to any of the following:

(1) A watercraft covered by a marine document in effect that has been assigned to it by the United States government pursuant to federal law;

(2) A watercraft from a country other than the United States temporarily using the waters in this state;

(3) A watercraft whose owner is the United States, a state, or a political subdivision thereof;

(4) A ship's lifeboat. As used in division (B)(4) of this section, "lifeboat" means a watercraft that is held aboard another vessel and used exclusively for emergency purposes.

(5) A canoe, ~~kayak, or rowboat;~~

(6) ~~Watercraft~~ A watercraft less than fourteen feet in length without a permanently affixed mechanical means of propulsion;

(7) A watercraft less than fourteen feet in length with a permanently fixed mechanical means of propulsion of less than ten horsepower as determined by the manufacturer's rating;

(8) Outboard motors of less than ten horsepower as determined by the manufacturer's rating.

(C) The various certificates, applications, and assignments necessary to provide certificates of title for watercraft and outboard motors shall be made on appropriate forms approved by the chief of the division of watercraft.

Sec. 1548.05. No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new watercraft or outboard motor to a dealer to be used by the dealer for purposes of display and resale without delivering to the dealer a manufacturer's or importer's certificate executed in accordance with this section; and with such assignments ~~thereon~~ on it as are necessary to show title in the name of the purchaser. No dealer shall purchase or acquire a new watercraft or outboard motor without obtaining from the seller the manufacturer's or importer's certificate.

A manufacturer's or importer's certificate of the origin of a watercraft or outboard motor shall contain the following information; in such form and together with such further information as the chief of the division of watercraft may require:

(A) Description of the watercraft, including the make, year, length, series or model, if any, body type, hull identification number or serial number, and make, manufacturer's serial number, and horsepower of any inboard motor or motors; or description of the outboard motor, including the make, year, series or model, if any, manufacturer's serial number, and horsepower;

(B) Certification of the date of transfer of the watercraft or outboard motor to a distributor or dealer or other transferee, and the name and address of the transferee;

(C) Certification that this was the first transfer of the new watercraft or outboard motor in ordinary trade and commerce;

(D) Signature and address of a representative of the transferor.

An assignment of a manufacturer's or importer's certificate before a notary public or other officer empowered to administer oaths shall be printed on the reverse side of the manufacturer's or importer's certificate in the form to be prescribed by the chief. The assignment form shall include the name and address of the transferee, a certification that the watercraft or outboard motor is new, and a warranty that the title at the time of delivery is

subject only to such liens and encumbrances as are set forth and described in full in the assignment.

Sec. 1548.06. Application for a certificate of title for a watercraft or outboard motor shall be made upon a form prescribed by the chief of the division of watercraft and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of the court of common pleas of the county in which the applicant resides if the applicant is a resident of this state or, if not a resident, in the county in which the transaction is consummated. The application shall be accompanied by the fee prescribed in section 1548.10 of the Revised Code, and if a certificate of title previously has been issued for the watercraft or outboard motor, it shall be accompanied by the certificate of title duly assigned unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the watercraft or outboard motor in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate; by a sworn statement of ownership if the watercraft or outboard motor was purchased by the applicant on or before October 9, 1963, or if the watercraft is less than fourteen feet long with a permanently affixed mechanical means of propulsion and was purchased by the applicant on or before January 1, 2000; or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the watercraft or outboard motor was brought into this state. Evidence of ownership of a watercraft or outboard motor for which an Ohio certificate of title previously has not been issued and which watercraft or outboard motor does not have permanently affixed thereto a manufacturer's serial number shall be accompanied by the certificate of assignment of a hull identification number assigned by the chief as provided in section 1548.07 of the Revised Code. ~~The~~

The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The clerk shall use reasonable diligence in ascertaining whether the facts in the application are true by checking the application and documents accompanying it with the records of watercraft and outboard motors in ~~his~~ the clerk's office. If satisfied that the applicant is the owner of the watercraft or outboard motor and that the application is in the proper form, the clerk shall issue a certificate of title over ~~his~~ the clerk's signature and sealed with ~~his~~ the clerk's seal. However, if the evidence indicates and an investigation shows that one or more Ohio titles already exist for the watercraft or outboard motor, the chief may cause the redundant title or titles to be canceled.

In the case of the sale of a watercraft or outboard motor by a vendor to a

general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the vendor upon application signed by the purchaser. In all other cases the certificate shall be obtained by the purchaser. In all cases of transfer of watercraft or outboard motors, the application for certificate of title shall be filed within thirty days after the later of the date of purchase or assignment of ownership of the watercraft or outboard motor. If the application for certificate of title is not filed within thirty days after the later of the date of purchase or assignment of ownership of the watercraft or outboard motor, the clerk shall charge a late penalty fee of five dollars in addition to the fee prescribed by section 1548.10 of the Revised Code. The clerk shall retain the entire amount of each late penalty fee.

The clerk shall refuse to accept an application for certificate of title unless the applicant either tenders with the application payment of all taxes levied by or pursuant to Chapter 5739. or 5741. of the Revised Code; less, in the case of a sale by a vendor, any discount to which the vendor is entitled under section 5739.12 of the Revised Code, or submits any of the following:

(A) A receipt issued by the tax commissioner or a clerk of courts showing payment of the tax;

(B) A copy of the unit certificate of exemption completed by the purchaser at the time of sale; as provided in section 5739.03 of the Revised Code;

(C) An exemption certificate, in a form prescribed by the tax commissioner, that specifies why the purchase is not subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code.

Payment of the tax shall be in accordance with rules issued by the tax commissioner, and the clerk shall issue a receipt in the form prescribed by the tax commissioner to any applicant who tenders payment of the tax with the application for registration of title.

For receiving and disbursing the taxes paid to the clerk, the clerk may retain a poundage fee of one per cent of the taxes collected, which shall be paid into the general fund of the county. In the case of casual sales of watercraft or outboard motors that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the purchase price on an affidavit executed and filed with the clerk by the vendor on a form to be prescribed by the chief of ~~the division of watercraft~~, which shall be prima-facie evidence of the price for the determination of the tax. In addition to the information required by section 1548.08 of the Revised Code, each certificate of title shall contain in bold lettering the following notification and statements: "WARNING TO

TRANSFEROR AND TRANSFEREE (SELLER AND BUYER). You are required by law to state the true selling price. A false statement is a violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish such information to the commissioner as the commissioner may require. For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien, but has not canceled the lien notation with the clerk of the county of origin, ~~he~~ the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

Sec. 1553.01. (A) There is hereby created in the department of natural resources the division of civilian conservation. The chief of the division shall be appointed by the director of natural resources.

(B) ~~The chief of the division of civilian conservation,~~ with the approval of the director and the advice of the civilian conservation advisory committee created in section 1553.10 of the Revised Code, shall do all of the following:

- (1) ~~Divide the state into conservation areas;~~
- (2) Establish, ~~within conservation areas,~~ residential and nonresidential civilian conservation programs ~~as that~~ the chief considers appropriate;
- ~~(3)~~(2) Establish eligibility standards in accordance with section 1553.04 of the Revised Code for selecting applicants for participation in conservation programs established under this chapter;
- ~~(4)~~(3) Adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter.

Sec. 1553.02. (A) The chief of the division of civilian conservation shall ensure that each program established under this chapter provides participants with educational advancement opportunities, life skill development opportunities, and work experience related to the conservation, development, and management of natural resources and recreational areas, restoration of historic structures, and assistance in the development of related community programs. ~~Such~~ The work experience may include planting, pruning, and cutting of trees, forest management including fire protection, reclaiming strip-mined land, wildlife habitat development, drainage control, prevention of shore and soil erosion, litter removal, trail

development, cleaning or repair of drainage ditches or streams, highway and community beautification, construction of lakes, ponds, and waterways to be used as fishing and hunting sites and for other recreational purposes, flood control projects, urban parks and recreational site development, assistance in times and places of natural disasters, insect and pest control, construction and renovation of facilities, restoration of historic structures, and any other similar work experience considered appropriate by the chief. ~~Such~~ The programs may be carried out on any publicly owned land or, with the prior written approval of the person owning, administering, or controlling the land, on privately owned land.

(B) The chief ~~may,~~ with the approval of the director, of natural resources, may contract with any agency or political subdivision of this state, other states, or the federal government to enable the division to participate in any state, federal, or community programs that ~~he~~ the chief considers to be in the public interest.

(C) The chief ~~may,~~ with the approval of the director, may contract with any person, ~~company, corporation, or association~~ in order to carry out the purposes of ~~Chapter 1553. of the Revised Code~~ this chapter.

(D) The chief may do all things necessary to obtain any federal assistance available for carrying out the purposes of this chapter.

Sec. 1553.05. (A) Each participant in a conservation program established under this chapter shall agree to participate in the program for a period of not less than six months unless participation for a period of less than six months is mandated by another funding agency's statutory authority or rules or regulations.

~~A~~ At the discretion of the chief of the division of civilian conservation, a participant may participate ~~in a program~~ for a period of more than six months, but no participant's total period of participation in the civilian conservation program shall exceed ~~eighteen~~ twenty-four months ~~except as otherwise provided in this division. Subject to the approval of the director of natural resources and the chief of the division of civilian conservation, a participant who has attained corps leader status may participate in the civilian conservation program for up to twenty-four months.~~

(B) The division of civilian conservation shall compensate each participant in an amount not less than the wage required by Chapter 4111. of the Revised Code and the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended. The division shall provide each participant in residential camps with lodging, food, and necessary work clothing and ~~such~~ other services ~~as~~ that the chief considers appropriate, all of which shall be considered, in accordance with Chapter 4111. of the

sed Code and the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended, a part of the participant's wage.

(C) The division shall provide participants in each nonresidential conservation program with ~~such~~ compensation, in money, goods, services, or any combination ~~thereof of them~~, as that it considers appropriate in light of the nature of the program and in accordance with Chapter 4111. of the Revised Code and the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, as amended.

(D) Participants shall not be considered as state employees under Chapter 124. of the Revised Code and shall not be permitted to participate in any public employee retirement program while they are participants in the civilian conservation program. They shall be considered employees of the state for the purposes of section 9.83 and Chapters 4112. and 4123. of the Revised Code.

Sec. 1553.07. The chief of the division of civilian conservation shall appoint appropriate personnel and ensure that appropriate facilities are available for the operation of the programs established under this chapter.

Sec. 1553.08. (A) The chief of the division of civilian conservation shall not make any payment to a person as compensation for service in referring an individual as a potential participant in a program established under ~~Chapter 1553. of the Revised Code~~ this chapter.

(B) The chief shall ensure that conservation programs established under ~~Chapter 1553. of the Revised Code~~ this chapter do not displace currently employed workers or impair existing contracts for service provided by other workers; and that no participant in such a program is used in any manner in connection with a work or labor dispute.

(C) The chief may design the conservation programs established under ~~Chapter 1553. of the Revised Code~~ this chapter so as to make use of any existing state, federal, or local funds ~~which that~~ may be available for such types of programs.

(D) If the operation of a program established under this chapter is terminated on or after July 1, 1998, because of a reduction in the amount of moneys appropriated to the division of civilian conservation, and if such funding for the division subsequently is restored, the chief shall consider reopening the program whose operation was so terminated prior to establishing a new program in an area of the state in which a program never has been established.

Sec. 2935.01. As used in this chapter:

(A) "Magistrate" has the same meaning as in section 2931.01 of the Revised Code.

(B) "Peace officer" includes, except as provided in section 2935.081 of the Revised Code, a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to section 737.04 of the Revised Code; member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code; member of a police force employed by a regional transit authority under division (Y) of section 306.05 of the Revised Code; state university law enforcement officer appointed under section 3345.04 of the Revised Code; liquor control investigator or food stamp trafficking agent of the department of public safety; employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013 Of the Revised Code, a forest officer designated pursuant to section 1503.29 Of the Revised Code, a preserve officer designated pursuant to section 1517.10 Of the Revised Code, a wildlife officer designated pursuant to section 1531.13 Of the Revised Code, a park officer designated pursuant to section 1541.10 Of the Revised Code, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code; individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 Of the Revised Code; Ohio veterans' home policeman police officer appointed under section 5907.02 of the Revised Code; police constable of any township; and police officer of a township or joint township police district; and, for the purpose of arrests within those areas, and for the purposes of Chapter 5503. of the Revised Code, and the filing of and service of process relating to those offenses witnessed or investigated by them, includes the superintendent and troopers of the state highway patrol.

(C) "Prosecutor" includes the county prosecuting attorney; and any assistant prosecutor designated to assist the county prosecuting attorney, and, in the case of courts inferior to courts of common pleas, includes the village solicitor, city director of law, or similar chief legal officer of a municipal corporation, any such officer's assistants, or any attorney designated by the prosecuting attorney of the county to appear for the prosecution of a given case.

(D) "Offense," except where the context specifically indicates otherwise, includes felonies, misdemeanors, and violations of ordinances of municipal corporations and other public bodies authorized by law to adopt penal regulations.

Sec. 2935.03. (A)(1) A sheriff, deputy sheriff, marshal, deputy marshal,

municipal police officer, township constable, police officer of a township or joint township police district, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, state university law enforcement officer appointed under section 3345.04 of the Revised Code, or Ohio veterans' home police officer appointed under section 5907.02 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, or Ohio veterans' home in which the peace officer is appointed, employed, or elected, a law of this state, an ordinance of a municipal corporation, or a resolution of a township.

(2) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code shall arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the peace officer's or individual's territorial jurisdiction, a law of this state.

(B)(1) When there is reasonable ground to believe that an offense of violence, the offense of criminal child enticement as defined in section 2905.05 of the Revised Code, the offense of public indecency as defined in section 2907.09 of the Revised Code, the offense of domestic violence as defined in section 2919.25 of the Revised Code, the offense of violating a protection order as defined in section 2919.27 of the Revised Code, the offense of menacing by stalking as defined in section 2903.211 of the Revised Code, the offense of aggravated trespass as defined in section 2911.211 of the Revised Code, a theft offense as defined in section 2913.01 of the Revised Code, or a felony drug abuse offense as defined in section 2925.01 of the Revised Code, has been committed within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, university, or Ohio veterans' home in which the peace officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a peace officer described in division (A)~~(4)~~ of this section may arrest and detain until a warrant can be obtained any person ~~whom~~ who the peace officer has reasonable cause to believe is guilty of the violation.

(2) For purposes of division (B)(1) of this section, the execution of any of the following constitutes reasonable ground to believe that the offense alleged in the statement was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation:

(a) A written statement by a person alleging that an alleged offender has committed the offense of menacing by stalking or aggravated trespass;

(b) A written statement by the administrator of the interstate compact on mental health appointed under section 5119.51 of the Revised Code alleging that a person who had been hospitalized, institutionalized, or confined in any facility under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code;

(c) A written statement by the administrator of any facility in which a person has been hospitalized, institutionalized, or confined under an order made pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the facility, from confinement in a vehicle for transportation to or from the facility, or from supervision by an employee of the facility that is incidental to hospitalization, institutionalization, or confinement in the facility and that occurs outside of the facility, in violation of section 2921.34 of the Revised Code.

(3)(a) For purposes of division (B)(1) of this section, a peace officer described in ~~that~~ division (A) of this section has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense if any of the following occurs:

(i) A person executes a written statement alleging that the person in question has committed the offense of domestic violence or the offense of violating a protection order against the person who executes the statement or against a child of the person who executes the statement.

(ii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer, based upon the peace officer's own knowledge and observation of the facts and circumstances of the alleged incident of the offense of domestic violence or the alleged incident

of the offense of violating a protection order or based upon any other information, including, but not limited to, any reasonably trustworthy information given to the peace officer by the alleged victim of the alleged incident of the offense or any witness of the alleged incident of the offense, concludes that there are reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that the person in question is guilty of committing the offense.

(iii) No written statement of the type described in division (B)(3)(a)(i) of this section is executed, but the peace officer witnessed the person in question commit the offense of domestic violence or the offense of violating a protection order.

(b) If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that a particular person is guilty of committing the offense, it is the preferred course of action in this state that the officer arrest and detain that person pursuant to division (B)(1) of this section until a warrant can be obtained.

If pursuant to division (B)(3)(a) of this section a peace officer has reasonable grounds to believe that the offense of domestic violence or the offense of violating a protection order has been committed and reasonable cause to believe that family or household members have committed the offense against each other, it is the preferred course of action in this state that the officer, pursuant to division (B)(1) of this section, arrest and detain until a warrant can be obtained the family or household member who committed the offense and whom the officer has reasonable cause to believe is the primary physical aggressor. There is no preferred course of action in this state regarding any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor, but, pursuant to division (B)(1) of this section, the peace officer may arrest and detain until a warrant can be obtained any other family or household member who committed the offense and whom the officer does not have reasonable cause to believe is the primary physical aggressor.

(c) If a peace officer described in division ~~(B)(1)(A)~~ of this section does not arrest and detain a person whom the officer has reasonable cause to believe committed the offense of domestic violence or the offense of violating a protection order when it is the preferred course of action in this state pursuant to division (B)(3)(b) of this section that the officer arrest that

person, the officer shall articulate in the written report of the incident required by section 2935.032 of the Revised Code a clear statement of the officer's reasons for not arresting and detaining that person until a warrant can be obtained.

(d) In determining for purposes of division (B)(3)(b) of this section which family or household member is the primary physical aggressor in a situation in which family or household members have committed the offense of domestic violence or the offense of violating a protection order against each other, a peace officer described in division ~~(B)(1)(A)~~ of this section, in addition to any other relevant circumstances, should consider all of the following:

(i) Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain;

(ii) If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;

(iii) Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear;

(iv) The comparative severity of any injuries suffered by the persons involved in the alleged offense.

(e)(i) A peace officer described in division ~~(B)(1)(A)~~ of this section shall not require, as a prerequisite to arresting or charging a person who has committed the offense of domestic violence or the offense of violating a protection order, that the victim of the offense specifically consent to the filing of charges against the person who has committed the offense or sign a complaint against the person who has committed the offense.

(ii) If a person is arrested for or charged with committing the offense of domestic violence or the offense of violating a protection order and if the victim of the offense does not cooperate with the involved law enforcement or prosecuting authorities in the prosecution of the offense or, subsequent to the arrest or the filing of the charges, informs the involved law enforcement or prosecuting authorities that the victim does not wish the prosecution of the offense to continue or wishes to drop charges against the alleged offender relative to the offense, the involved prosecuting authorities, in determining whether to continue with the prosecution of the offense or whether to dismiss charges against the alleged offender relative to the offense and notwithstanding the victim's failure to cooperate or the victim's wishes, shall consider all facts and circumstances that are relevant to the

offense, including, but not limited to, the statements and observations of the peace officers who responded to the incident that resulted in the arrest or filing of the charges and of all witnesses to that incident.

(f) In determining pursuant to divisions (B)(3)(a) to (g) of this section whether to arrest a person pursuant to division (B)(1) of this section, a peace officer described in division ~~(B)(1)(A)~~ of this section shall not consider as a factor any possible shortage of cell space at the detention facility to which the person will be taken subsequent to the person's arrest or any possibility that the person's arrest might cause, contribute to, or exacerbate overcrowding at that detention facility or at any other detention facility.

(g) If a peace officer described in division ~~(B)(1)(A)~~ of this section intends pursuant to divisions (B)(3)(a) to (g) of this section to arrest a person pursuant to division (B)(1) of this section and if the officer is unable to do so because the person is not present, the officer promptly shall seek a warrant for the arrest of the person.

(h) If a peace officer described in division ~~(B)(1)(A)~~ of this section responds to a report of an alleged incident of the offense of domestic violence or an alleged incident of the offense of violating a protection order and if the circumstances of the incident involved the use or threatened use of a deadly weapon or any person involved in the incident brandished a deadly weapon during or in relation to the incident, the deadly weapon that was used, threatened to be used, or brandished constitutes contraband, and, to the extent possible, the officer shall seize the deadly weapon as contraband pursuant to section 2933.43 of the Revised Code. Upon the seizure of a deadly weapon pursuant to ~~this division (B)(3)(h) of this section~~, section 2933.43 of the Revised Code shall apply regarding the treatment and disposition of the deadly weapon. For purposes of that section, the "underlying criminal offense" that was the basis of the seizure of a deadly weapon under ~~this division (B)(3)(h) of this section~~ and to which the deadly weapon had a relationship is any of the following that is applicable:

(i) The alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded;

(ii) Any offense that arose out of the same facts and circumstances as the report of the alleged incident of the offense of domestic violence or the alleged incident of the offense of violating a protection order to which the officer who seized the deadly weapon responded.

(4) If, in the circumstances described in divisions (B)(3)(a) to (g) of this section, a peace officer described in division ~~(B)(1)(A)~~ of this section arrests and detains a person pursuant to division (B)(1) of this section, or if,

pursuant to division (B)(3)(h) of this section, a peace officer described in division ~~(B)(1)(A)~~ of this section seizes a deadly weapon, the officer, to the extent described in and in accordance with section 9.86 or 2744.03 of the Revised Code, is immune in any civil action for damages for injury, death, or loss to person or property that arises from or is related to the arrest and detention or the seizure.

(C) When there is reasonable ground to believe that a violation of division (A), (B), or (C) of section 4506.15 or a violation of section 4511.19 of the Revised Code has been committed by a person operating a motor vehicle subject to regulation by the public utilities commission of Ohio under Title XLIX of the Revised Code, a peace officer with authority to enforce that provision of law may stop or detain the person whom the officer has reasonable cause to believe was operating the motor vehicle in violation of the division or section and, after investigating the circumstances surrounding the operation of the vehicle, may arrest and detain the person.

(D) If a sheriff, deputy sheriff, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code, member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code, township constable, police officer of a township or joint township police district, or state university law enforcement officer appointed under section 3345.04 of the Revised Code, peace officer of the department of natural resources, or individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 Of the Revised Code is authorized by division (A) or (B) of this section to arrest and detain, within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, or university in which the officer is appointed, employed, or elected or within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer ~~may~~, outside the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if all of the following apply:

(1) The pursuit takes place without unreasonable delay after the offense is committed;

(2) The pursuit is initiated within the limits of the political subdivision, metropolitan housing authority housing project, regional transit authority facilities or those areas of a municipal corporation that have been agreed to

by a regional transit authority and a municipal corporation located within its territorial jurisdiction, college, or university in which the peace officer is appointed, employed, or elected; or within the limits of the territorial jurisdiction of the peace officer;

(3) The offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to division (G) of section 4507.021 of the Revised Code.

(E) In addition to the authority granted under division (A) or (B) of this section:

(1) A sheriff or deputy sheriff may arrest and detain, until a warrant can be obtained, any person found violating section 4503.11, 4503.21, or 4549.01, sections 4549.08 to 4549.12, section 4549.62, or Chapter 4511. or 4513. of the Revised Code on the portion of any street or highway that is located immediately adjacent to the boundaries of the county in which the sheriff or deputy sheriff is elected or appointed.

(2) A member of the police force of a township police district created under section 505.48 of the Revised Code, a member of the police force of a joint township police district created under section 505.481 of the Revised Code, ~~and~~ or a township constable appointed in accordance with section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the township police district or joint township police district, in the case of a member of a township police district or joint township police district police force, or the unincorporated territory of the township, in the case of a township constable. However, if the population of the township that created the township police district served by the member's police force, or the townships that created the joint township police district served by the member's police force, or the township that is served by the township constable, is sixty thousand or less, the member of the township police district or joint police district police force or the township constable may not make an arrest under ~~this~~ division (E)(2) of this section on a state highway that is included as part of the interstate system.

(3) A police officer or village marshal appointed, elected, or employed

by a municipal corporation may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section on the portion of any street or highway that is located immediately adjacent to the boundaries of the municipal corporation in which the police officer or village marshal is appointed, elected, or employed.

(4) A peace officer of the department of natural resources or an individual designated to perform law enforcement duties under section 511.232, 1545.13, or 6101.75 of the Revised Code may arrest and detain, until a warrant can be obtained, any person found violating any section or chapter of the Revised Code listed in division (E)(1) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, on the portion of any street or highway that is located immediately adjacent to the boundaries of the lands and waters that constitute the territorial jurisdiction of the peace officer.

(F)(1) A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person found committing on the premises of any institution under the jurisdiction of the particular department a misdemeanor under a law of the state.

A department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer may arrest without a warrant and detain until a warrant can be obtained any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code and who is found committing on the premises of any institution under the jurisdiction of the particular department a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution.

(2)(a) If a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer finds any person who has been hospitalized, institutionalized, or confined in an institution under the jurisdiction of the particular department pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code committing a violation of section 2921.34 of the Revised Code that involves an escape from the premises of the institution, or if there is reasonable ground to believe that a violation of section 2921.34 of the Revised Code

has been committed that involves an escape from the premises of an institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities and if a department of mental health special police officer or a department of mental retardation and developmental disabilities special police officer has reasonable cause to believe that a particular person who has been hospitalized, institutionalized, or confined in the institution pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code is guilty of the violation, the special police officer, outside of the premises of the institution, may pursue, arrest, and detain that person for that violation of section 2921.34 of the Revised Code, until a warrant can be obtained, if both of the following apply:

(i) The pursuit takes place without unreasonable delay after the offense is committed;

(ii) The pursuit is initiated within the premises of the institution from which the violation of section 2921.34 of the Revised Code occurred.

(b) For purposes of division (F)(2)(a) of this section, the execution of a written statement by the administrator of the institution in which a person had been hospitalized, institutionalized, or confined pursuant to or under authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code alleging that the person has escaped from the premises of the institution in violation of section 2921.34 of the Revised Code constitutes reasonable ground to believe that the violation was committed and reasonable cause to believe that the person alleged in the statement to have committed the offense is guilty of the violation.

(G) As used in this section:

(1) A "department of mental health special police officer" means a special police officer of the department of mental health designated under section 5119.14 of the Revised Code who is certified by the Ohio peace officer training commission under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(2) A "department of mental retardation and developmental disabilities special police officer" means a special police officer of the department of mental retardation and developmental disabilities designated under section 5123.13 of the Revised Code who is certified by the Ohio peace officer training council under section 109.77 of the Revised Code as having successfully completed an approved peace officer basic training program.

(3) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(4) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(5) "Street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

(6) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(7) "Peace officer of the department of natural resources" means an employee of the department of natural resources who is a natural resources law enforcement staff officer designated pursuant to section 1501.013, a forest officer designated pursuant to section 1503.29, a preserve officer designated pursuant to section 1517.10, a wildlife officer designated pursuant to section 1531.13, a park officer designated pursuant to section 1541.10, or a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

Sec. 3937.42. (A) The chief or head law enforcement officer of any federal, state, or local law enforcement agency or a prosecuting attorney of any county may request any insurance company, or agent authorized by the company to act on its behalf, that has investigated or is investigating a claim involving motor vehicle insurance or vessel insurance to release any information in its possession relevant to the claim. The company or agent shall release the information that is requested in writing by the law enforcement officer.

(B) If an insurance company, or agent authorized by the company to act on its behalf, has reason to suspect that a loss involving a motor vehicle or vessel that is insured by the company is part of a fraudulent scheme to obtain control of ~~motor vehicle~~ insurance proceeds, the company or agent shall notify a law enforcement officer or a prosecuting attorney of any county having jurisdiction over the alleged fraud.

(C) An insurance company, or agent authorized by the company to act on its behalf, shall release any information requested in writing pursuant to division (A) of this section and cooperate with the officer or a prosecuting attorney of any county authorized to request the information. The company or agent shall take such action as may be reasonably requested of it by the officer or a prosecuting attorney of any county and shall permit any other person ordered by a court to inspect any information that is specifically requested by the court.

The information that may be requested pursuant to this section may include, but is not limited to, the following:

(1) Any insurance policy relevant to the claim under investigation and any application for such a policy;

(2) Policy premium payment records;

(3) History of previous ~~motor vehicle~~ claims involving a motor vehicle or vessel made by the insured;

(4) Material relating to the investigation of the claim, including statements of any person, proof of loss, and any other relevant evidence.

(D) If the law enforcement officer or a prosecuting attorney of any county mentioned in division (A) of this section has received information pursuant to this section from an insurance company, or agent authorized by the company to act on its behalf, the officer or a prosecuting attorney of any county may release to, and share with, the insurance company or agent any information in ~~his~~ the officer's or prosecuting attorney's possession relative to the claim, upon the written request of the insurance company or agent.

(E) In the absence of fraud, recklessness, or malice, no insurance company, or agent authorized by the company to act on its behalf, is liable for damages in any civil action, including any action brought pursuant to section 1347.10 of the Revised Code for any oral or written statement made or any other action taken that is necessary to supply information required pursuant to this section.

(F) Except as otherwise provided in division (D) of this section, any officer or a prosecuting attorney of any county receiving any information furnished pursuant to this section shall hold the information in confidence and shall not disclose it to anyone except other law enforcement officers or agencies until its release is required pursuant to a criminal or civil proceeding.

(G) Any officer or a prosecuting attorney of any county referred to in division (A) of this section may testify as to any information in ~~his~~ the officer's or prosecuting attorney's possession regarding the claim referred to in that division in any civil action in which any person seeks recovery under a policy against an insurance company.

(H) As used in this section, ~~"motor vehicle"~~:

(1) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(2) "Vessel" has the same meaning as in section 1547.01 Of the Revised Code.

(I)(1) No person shall purposely refuse to release any information requested pursuant to this section by an officer or a prosecuting attorney of any county authorized by division (A) of this section to request the information.

(2) No person shall purposely refuse to notify an appropriate law enforcement officer or a prosecuting attorney of any county of a loss required to be reported pursuant to division (B) of this section.

(3) No person shall purposely fail to hold in confidence information required to be held in confidence by division (F) of this section.

Sec. 4905.03. As used in this chapter:

(A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, is:

(1) A telegraph company, when engaged in the business of transmitting telegraphic messages to, from, through, or in this state;

(2) A telephone company, when engaged in the business of transmitting telephonic messages to, from, through, or in this state and as such is a common carrier;

(3) A motor transportation company, when engaged in the business of carrying and transporting persons or property or the business of providing or furnishing such transportation service, for hire, in or by motor-propelled vehicles of any kind, including trailers, for the public in general, over any public street, road, or highway in this state, except as provided in section 4921.02 of the Revised Code;

(4) An electric light company, when engaged in the business of supplying electricity for light, heat, or power purposes to consumers within this state;

(5) A gas company, when engaged in the business of supplying artificial gas for lighting, power, or heating purposes to consumers within this state or when engaged in the business of supplying artificial gas to gas companies or to natural gas companies within this state, but a producer engaged in supplying to one or more gas or natural gas companies, only such ~~artificial~~ ARTIFICIAL gas as is manufactured by ~~such that~~ such the producer as a by-product of some other process in which ~~such the~~ the producer is primarily engaged within this state is not thereby a gas company. All rates, rentals, tolls, schedules, charges of any kind, or agreements between any gas company and any other gas company or any natural gas company providing for the supplying of artificial gas and for compensation for the same; are subject to the jurisdiction of the public utilities commission.

(6) A natural gas company, when engaged in the business of supplying natural gas for lighting, power, or heating purposes to consumers within this state, ~~or when engaged in the business of supplying natural gas to gas companies or to natural gas companies within this state, but where a producer supplies to one or more gas or natural gas companies only such gas~~

~~as is produced by such producer from wells drilled on land owned in fee by such producer or where the principal use of such land by said producer is other than the production of gas, within this state, such producer is not thereby a natural gas company. All.~~ Notwithstanding the above, neither the delivery nor sale of Ohio-produced natural gas by a producer or gatherer under a public utilities commission-ordered exemption, adopted before, as to producers, or after, as to producers or gatherers, January 1, 1996, or the delivery or sale of Ohio-produced natural gas by a producer or gatherer of Ohio-produced natural gas, either to a lessor under an oil and gas lease of the land on which the producer's drilling unit is located, or the grantor incident to a right-of-way or easement to the producer or gatherer, shall cause the producer or gatherer to be a natural gas company for the purposes of this section.

All rates, rentals, tolls, schedules, charges of any kind, or agreements between a natural gas company and other natural gas companies or gas companies providing for the supply of natural gas and for compensation for the same, are subject to the jurisdiction of the public utilities commission. The commission ~~may~~, upon application made to it, may relieve any producer or gatherer of natural gas, defined in this section as a gas company or a natural gas company, of compliance with the obligations imposed by this chapter and Chapters 4901., 4903., ~~4905.,~~ 4907., 4909., 4921., and 4923. of the Revised Code, so long as ~~such the~~ producer or gatherer is not affiliated with or under the control of a gas company or a natural gas company engaged in the transportation or distribution of natural gas, or so long as ~~such the~~ producer or gatherer does not engage in the distribution of natural gas to consumers.

Nothing in division (A)(6) of this section limits the authority of the commission to enforce sections 4905.90 to 4905.96 Of the Revised Code.

(7) A pipe-line company, when engaged in the business of transporting natural gas, oil, or coal or its derivatives through pipes or tubing, either wholly or partly within this state;

(8) A water-works company, when engaged in the business of supplying water through pipes or tubing, or in a similar manner, to consumers within this state;

(9) A heating or cooling company, when engaged in the business of supplying water, steam, or air through pipes or tubing to consumers within this state for heating or cooling purposes;

(10) A messenger company, when engaged in the business of supplying messengers for any purpose;

(11) A street railway company, when engaged in the business of

operating as a common carrier, a railway, wholly or partly within this state, with one or more tracks upon, along, above, or below any public road, street, alleyway, or ground, within any municipal corporation, operated by any motive power other than steam and not a part of an interurban railroad, whether ~~such~~ the railway is termed street, inclined-plane, elevated, or underground railway;

(12) A suburban railroad company, when engaged in the business of operating as a common carrier, whether wholly or partially within this state, a part of a street railway constructed or extended beyond the limits of a municipal corporation, and not a part of an interurban railroad;

(13) An interurban railroad company, when engaged in the business of operating a railroad, wholly or partially within this state, with one or more tracks from one municipal corporation or point in this state to another municipal corporation or point in this state, whether constructed upon the public highways or upon private rights-of-way, outside of municipal corporations, using electricity or other motive power than steam power for the transportation of passengers, packages, express matter, United States mail, baggage, and freight. Such an interurban railroad company is included in the term "railroad" as used in section 4907.02 of the Revised Code.

(14) A sewage disposal system company, when engaged in the business of sewage disposal services through pipes or tubing, and treatment works, or in a similar manner, within this state.

(B) "Motor-propelled vehicle" means any automobile, automobile truck, motor bus, or any other self-propelled vehicle not operated or driven upon fixed rails or tracks.

Nothing in this section shall be construed to mean that an electric light company operated not for profit, owned and operated exclusively by and solely for its customers, or owned or operated by a municipal corporation, is subject to sections 4905.66, 4905.67, 4905.68, and 4905.69 of the Revised Code.

Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program, to meet the environmental and resource management needs of this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon the severer and shall be:

- (1) Seven cents per ton of coal;
- (2) Four cents per ton of salt;
- (3) Two cents per ton of limestone or dolomite;
- (4) Two cents per ton of sand and gravel;

- (5) Ten cents per barrel of oil;
- (6) Two and one-half cents per thousand cubic feet of natural gas;
- (7) One cent per ton of clay, sandstone or conglomerate, shale, gypsum, or quartzite.

(B) Of the moneys received by the treasurer of state from the tax levied in division (A)(1) of this section, six and three-tenths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, fourteen and two-tenths per cent shall be credited to the ~~defaulted areas~~ reclamation supplemental forfeiture fund created in division (B) of section 1513.18 of the Revised Code, fifty-seven and nine-tenths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and the remainder shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code. When, within ten days before or after the beginning of a fiscal year, the chief of the division of mines and reclamation finds that the balance of the coal mining administration and reclamation reserve fund is below two million dollars, the chief shall certify that fact to the director of budget and management. Upon receipt of the chief's certification, the director shall direct the treasurer of state to instead credit to the coal mining administration and reclamation reserve fund during the fiscal year for which the certification is made the fourteen and two-tenths per cent of the moneys collected from the tax levied in division (A)(1) of this section and otherwise required by this division to be credited to the ~~defaulted areas~~ reclamation supplemental forfeiture fund.

Fifteen per cent of the moneys received by the treasurer of state from the tax levied in division (A)(2) of this section shall be credited to the geological mapping fund and the remainder shall be credited to the unreclaimed lands fund.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(3) and (4) of this section, seven and five-tenths per cent shall be credited to the geological mapping fund, forty-two and five-tenths per cent shall be credited to the unreclaimed lands fund, and the remainder shall be credited to the surface mining administration fund created in section 1514.11 of the Revised Code.

Of the moneys received by the treasurer of state from the tax levied in divisions (A)(5) and (6) of this section, twenty per cent shall be credited to the oil and gas well plugging fund created in section 1509.071 of the Revised Code, ten per cent shall be credited to the geological mapping fund, and seventy per cent shall be credited to the oil and gas permit fund created in section 1509.02 of the Revised Code. All of the moneys received by the

treasurer of state from the tax levied in division (A)(7) of this section shall be credited to the surface mining administration fund.

(C) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim ~~in accordance with Chapter 1513. of the Revised Code~~ under a coal mining and reclamation permit issued under ~~that chapter on or after September 1, 1981, and Chapter 1513. Of the Revised Code,~~ or under a surface mining permit issued under Chapter 1514. Of the Revised Code, for which the operator's bond is not sufficient to pay the state's expense for reclamation, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (D) of this section. The tax shall be imposed at the rate of one cent per ton of coal as ~~prescribed in this division.~~ Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation supplemental forfeiture fund created in division ~~(D)(B)~~ of section 1513.18 of the Revised Code.

~~The tax levied by this division shall be imposed when, during any fiscal year, the balance of the reclamation supplemental forfeiture fund is reduced below two million dollars and five hundred thousand dollars has been transferred to the reclamation supplemental forfeiture fund from the unreclaimed lands fund during the fiscal year. The tax shall be imposed in the calendar year following the close of the fiscal year during which the balance is so reduced and shall continue to be imposed until the end of the calendar year in which the balance of the reclamation supplemental forfeiture fund is restored to two million dollars, at which time the imposition of the tax shall be suspended until the time that the circumstances requiring the tax to be imposed recur.~~

~~When, at the close of the fiscal year, the chief of the division of mines and reclamation finds that the balance of the reclamation supplemental forfeiture fund is below two million dollars and that five hundred thousand dollars has been transferred to the fund previously in the fiscal year, the chief, within thirty days after the close of the fiscal year, shall certify that fact to the tax commissioner, at which time the circumstances requiring the imposition of the tax shall be deemed to have occurred.~~

(D) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim in accordance with Chapter 1513. of the Revised Code under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981, for which the operator's bond is not sufficient to pay the state's expense for reclamation and paying the expenses for administering the state's coal mining and

reclamation regulatory program, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (C) of this section. The tax shall be imposed at the rate of one cent per ton of coal as prescribed in this division. Moneys received by the treasurer of state from the tax levied by this division shall be credited to the ~~defaulted areas~~ reclamation supplemental forfeiture fund created in division (B) of section 1513.18 of the Revised Code.

When, at the close of any fiscal year, the chief finds that the balance of the ~~defaulted areas~~ reclamation supplemental forfeiture fund, plus estimated transfers to it from the coal mining and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by this division for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of such lands, the purposes for which the tax under this division is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify ~~his~~ those findings to the tax commissioner, and the tax shall cease to be imposed after the last day of that calendar year.

(E) On the day fixed for the payment of the severance taxes required to be paid by this section, the taxes with any penalties or interest ~~thereon on~~ them shall become a lien on all property of the taxpayer in this state; whether the property is employed by the taxpayer in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of creditors or stockholders. The lien shall continue until the taxes and any penalties or interest thereon are paid.

Upon failure of the taxpayer to pay a tax on the day fixed for payment, the tax commissioner may file, for which no filing fee shall be charged, in the office of the county recorder in each county in this state in which the taxpayer owns or has a beneficial interest in real estate, notice of the lien containing a brief description of the real estate. The lien shall not be valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time the notice is filed in the county in which the real estate that is the subject of the mortgage, purchase, or judgment lien is located. The notice shall be recorded in a book kept by the recorder called the "severance tax lien record" and indexed under the name of the taxpayer charged with the tax. When the tax has been paid, the tax commissioner shall furnish to the taxpayer an acknowledgement of payment, which the taxpayer may record with the recorder of each county in which notice of the lien has been filed.

Sec. 6111.42. The environmental protection agency shall do all of the following:

(A) ~~Collect~~ Primarily with regard to water quality, collect, study, and interpret all available information, statistics, and data pertaining to the supply, use, conservation, and replenishment of the ~~underground~~ ground and surface waters in the state in coordination with other agencies of this state;

(B) ~~Be~~ Primarily with regard to water quality, be authorized to cooperate with and negotiate for the state with any agency of the United States government, of this state, or ~~agency~~ of any other state pertaining to the water resources of the state;

(C) Be authorized to perform stream gauging and contract with the United States government or any other agency for the gauging of any streams within the state;

(D) Have authority to furnish information to all public officials, offices, and agencies of and in the state, and to farmers, well drillers, water consumers, industries, and any other persons seeking information regarding water resources;

(E) ~~Prescribe such regulations subject to and~~ adopt rules in accordance with ~~sections 119.01 to 119.13~~ Chapter 119, of the Revised Code; for the drilling, operation, maintenance, and abandonment of wells ~~as that~~ are deemed determined to be necessary by the director of environmental protection to prevent the contamination of the ~~underground~~ ground waters in the state, except that ~~such regulations~~ the rules shall not apply to wells for the provision of water for human consumption unless they are used, or are for use, by a public water system as defined in section 6109.01 of the Revised Code. No person shall violate ~~any such regulation~~ a rule adopted under this division.

(F) Have access to all information and statistics ~~which that~~ any public authority within the state has available ~~which and that~~ the director deems determines are pertinent to its duties;

(G) Have authority to prepare an accurate map and description of the territorial boundaries of proposed watershed districts within the state. ~~Such~~ The map and description shall follow the property line, section line, half section line, or patent line ~~which that~~ is nearest to the hydrologic boundary of the proposed watershed district. There shall be not less than fifteen nor more than eighteen proposed watershed districts in the state, and each shall be composed of one or more major river watersheds. When a map and a description of a proposed watershed district has been completed, the director shall cause a copy ~~thereof~~ of them to be filed with the secretary of state and the board of county commissioners of each county contained in whole or in

part within the territorial boundaries of ~~such~~ the proposed watershed district.

SECTION 2. That existing sections 109.71, 109.751, 109.77, 109.801, 109.802, 145.01, 145.33, 149.01, 505.82, 918.12, 971.01, 1501.02, 1501.10, 1502.01, 1502.03, 1502.04, 1502.05, 1502.99, 1503.05, 1503.29, 1503.43, 1504.02, 1505.10, 1505.99, 1506.02, 1506.11, 1507.05, 1509.01, 1509.06, 1509.07, 1509.071, 1509.072, 1509.13, 1509.14, 1509.22, 1509.222, 1509.31, 1511.02, 1511.022, 1513.02, 1513.18, 1513.181, 1513.20, 1513.30, 1513.37, 1515.03, 1515.08, 1515.24, 1517.10, 1517.14, 1517.99, 1518.20, 1518.21, 1518.22, 1518.23, 1518.24, 1518.25, 1518.26, 1518.27, 1518.99, 1520.01, 1520.02, 1520.03, 1521.03, 1521.05, 1531.01, 1531.06, 1531.13, 1531.20, 1531.33, 1531.99, 1533.01, 1533.06, 1533.08, 1533.10, 1533.12, 1533.171, 1533.24, 1533.67, 1533.68, 1533.70, 1533.71, 1533.74, 1533.82, 1533.99, 1541.03, 1541.10, 1547.01, 1547.03, 1547.04, 1547.08, 1547.09, 1547.111, 1547.12, 1547.13, 1547.131, 1547.14, 1547.15, 1547.22, 1547.25, 1547.251, 1547.26, 1547.30, 1547.302, 1547.31, 1547.33, 1547.39, 1547.40, 1547.52, 1547.521, 1547.531, 1547.54, 1547.542, 1547.543, 1547.57, 1547.69, 1548.01, 1548.05, 1548.06, 1553.01, 1553.02, 1553.05, 1553.08, 2935.01, 2935.03, 3937.42, 4905.03, 5749.02, and 6111.42 and sections 1515.06, 1515.071, and 1553.07 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 1547.31 of the Revised Code, as enacted by Am. S.B. 295 of the 121st General Assembly, that takes effect on January 1, 2000, be amended to read as follows:

Sec. 1547.31. (A) Every powercraft operated on the waters in this state shall be equipped at all times with a muffler or a muffler system that is in good working order, in constant operation, and effectively installed to prevent excessive or unusual noise.

(B)(1) No person shall operate or give permission for the operation of a powercraft on the waters in this state in such a manner as to exceed a noise level of ninety decibels on the "A" scale when subjected to a stationary sound level test as prescribed by SAE J2005.

(2) No person shall operate or give permission for the operation of a powercraft on the waters in this state in such a manner as to exceed a noise level of seventy-five decibels on the "A" scale measured as specified by SAE J1970. Measurement of a noise level of not more than seventy-five decibels on the "A" scale of a powercraft in operation does not preclude the conducting of a stationary sound level test as prescribed by SAE J2005.

(C) No person shall operate or give permission for the operation of a

powercraft on the waters in this state that is equipped with an altered muffler or muffler cutout, or operate or give permission for the operation of a powercraft on the waters in this state in any manner that bypasses or otherwise reduces or eliminates the effectiveness of any muffler or muffler system installed in accordance with this section, unless the applicable mechanism has been permanently disconnected or made inoperable.

(D) No person shall remove, alter, or otherwise modify in any way a muffler or muffler system in a manner that will prevent it from being operated in accordance with this section.

(E) No person shall manufacture, sell, or offer for sale a powercraft that is not equipped with a muffler or muffler system that prevents noise levels in excess of those established in division (B)(1) of this section.

(F) This section does not apply to any of the following:

(1) A powercraft that is designed, manufactured, and sold for the sole purpose of competing in racing events. The exception established under division (F)(1) of this section shall be documented in each sale agreement and shall be acknowledged formally by the signatures of the buyer and the seller. The buyer and the seller shall maintain copies of the sale agreement. A copy of the sale agreement shall be kept aboard the powercraft when it is operated. A powercraft to which the exception established under division (F)(1) of this section applies shall be operated on the waters in this state only in accordance with division (F)(2) of this section.

(2) A powercraft that is actually participating in a sanctioned racing event or in tune-up periods for a sanctioned racing event on the waters in this state and that is being operated in accordance with division (F)(2) of this section. For the purposes of division (F)(2) of this section, a sanctioned racing event is a racing event that is conducted in accordance with section 1547.20 of the Revised Code or that is approved by the United States coast guard. The operator of a powercraft that is operated on the waters in this state for the purpose of a sanctioned racing event shall comply with that section and requirements established under it or with requirements established by the coast guard, as appropriate. Failure to comply subjects the operator to this section.

(3) A powercraft that is being operated on the waters in this state by or for a boat or engine manufacturer for the purpose of testing, development, or both and that complies with division (F)(3) of this section. The operator of such a powercraft shall have aboard at all times and shall produce on demand of a law enforcement officer a current, valid letter issued by the chief of the division of watercraft in accordance with rules adopted under division (I)(1) of this section. Failure to produce the letter subjects the

operator to this section.

(G) A law enforcement officer who is trained in accordance with rules adopted under division (I)(2) of this section and who has reason to believe that a powercraft is not in compliance with the noise levels established in this section may direct the operator of the powercraft to submit it to an on-site test to measure the level of the noise emitted by the powercraft. The operator shall comply with that direction. The officer may remain aboard the powercraft during the test at the officer's discretion.

If the level of the noise emitted by the powercraft exceeds the noise levels established in this section, the officer may direct the operator to take immediate and reasonable measures to correct the violation, including returning the powercraft to a mooring and keeping it at the mooring until the violation is corrected or ceases.

(H) A law enforcement officer who conducts powercraft noise level tests pursuant to this section shall be trained to do so in accordance with rules adopted under division (I)(2) of this section.

(I) In accordance with Chapter 119. of the Revised Code, the chief shall adopt rules establishing both of the following:

(1) Requirements and procedures for the issuance of letters under division (F)(3) of this section. The rules shall require, without limitation, that each such letter adequately identify the powercraft concerning which the letter is issued and specify the purposes for which the powercraft is being operated.

(2) Requirements and procedures for the training of law enforcement officers who conduct powercraft noise level tests pursuant to this section. The rules shall require the training to include, without limitation, the selection of a site where noise level is measured and the calibration and use of noise measurement equipment.

SECTION 4. That all existing versions of section 1547.31 of the Revised Code are hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect January 1, 2000.

SECTION 6. As used in this section, "natural resources law enforcement staff officer" and "preserve officer" have the same meanings as in section 145.01 of the Revised Code, as amended by this act.

Not later than ninety days after the effective date of this act, each

natural resources law enforcement staff officer and each preserve officer, who is a member of the Public Employees Retirement System shall indicate to the system, on a form supplied by the retirement system, a choice of whether to receive benefits under division (A) of section 145.33 of the Revised Code or division (B) of that section.

SECTION 7. All rules adopted by the Chief of the Division of Natural Areas and Preserves in the Department of Natural Resources pursuant to section 1518.22 of the Revised Code, as it existed prior to the effective date of this act, continue in effect as rules until amended or rescinded by the Chief of the Division of Wildlife in that Department pursuant to section 1533.88 of the Revised Code, as amended by this act. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the rules of the Division of Natural Areas and Preserves to reflect their transfer to the Division of Wildlife.

SECTION 8. The amendments to section 4905.03 of the Revised Code by this act shall not be construed to modify rules and orders of the Public Utilities Commission in existence on the effective date of this act.

SECTION 9. Section 109.77 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 670 and Am. Sub. S.B. 285 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 109.802 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 145.33 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 379 and Am. Sub. H.B. 450 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 1511.02 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. S.B. 73, Am. Sub. S.B. 182, and Am. Sub. S.B. 226 of the 120th General Assembly, with the new language of none of the acts shown in capital letters. Section 1513.181 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 2 and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 1515.08 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 73 and Am. Sub. S.B. 182 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. Section 5749.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____