

(125th General Assembly)
(Substitute House Bill Number 299)

AN ACT

To amend sections 309.09, 5543.01, 5553.04, 5553.042, 5553.043, 5555.02, 5571.02, 5571.08, and 5571.12, to contingently amend sections 1509.03 and 1509.06, and to enact sections 5541.05, 5553.045, and 5571.20 of the Revised Code to authorize a township to vacate upon petition certain township roads that are not used by and maintained for the public, to permit a board of county commissioners and a board of township trustees to place a graveled or unimproved county or township road on nonmaintained status, to preserve certain utility rights of way in vacated roads, to revise the notification requirements governing the drilling of oil and gas wells, to create the Oil and Gas Advisory Council to advise the Chief of the Division of Mineral Resources Management in the Department of Natural Resources regarding the adoption of certain rules governing oil and gas wells, to permit the prosecuting attorney to be the legal adviser to a joint fire district, and to declare an emergency.

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

SECTION 1. That sections 309.09, 5543.01, 5553.04, 5553.042, 5553.043, 5555.02, 5571.02, 5571.08, and 5571.12 be amended and sections 5541.05, 5553.045, and 5571.20 of the Revised Code be enacted to read as follows:

Sec. 309.09. (A) The prosecuting attorney shall be the legal adviser of the board of county commissioners, board of elections, and all other county officers and boards, including all tax-supported public libraries, and any of them may require written opinions or instructions from the prosecuting attorney in matters connected with their official duties. The prosecuting

attorney shall prosecute and defend all suits and actions which any such officer or board directs or to which it is a party, and no county officer may employ any other counsel or attorney at the expense of the county, except as provided in section 305.14 of the Revised Code.

(B) The prosecuting attorney shall be the legal adviser for all township officers, boards, and commissions, unless the township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and has not entered into a contract to have the prosecuting attorney serve as the township law director, in which case the township law director, whether serving full-time or part-time, shall be the legal adviser for all township officers, boards, and commissions. When the board of township trustees finds it advisable or necessary to have additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel ~~or attorney~~ may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board ~~of county commissioners~~ in its official capacity and to advise it on legal matters, the board ~~of county commissioners~~ shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total compensation paid, in any year, by the board ~~of county commissioners~~ for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates. All moneys received pursuant to the contract shall be deposited into the prosecuting attorney's legal services fund, which shall be established in the

county treasury of each county in which the contract exists. Moneys in that fund may be appropriated only to the prosecuting attorney for the purpose of providing legal services under a contract entered into under this division.

(E) The prosecuting attorney may be, in the prosecuting attorney's discretion, the legal adviser of a joint fire district created under section 505.371 of the Revised Code, at no cost to the district.

Sec. 5541.05. (A) Except as otherwise provided in division (D) of this section, a board of county commissioners by resolution may place a graveled or unimproved county road under its jurisdiction or any portion of such a road on nonmaintained status. Upon adoption of such a resolution, the board is not required to cause the road to be dragged at any time, or to cut, destroy, or remove any brush, weeds, briars, bushes, or thistles upon or along the road, or to remove snow from the road, or to maintain or repair the road in any manner. The board, in its discretion, may cause any of these actions to be performed on or to a road that it has placed on nonmaintained status.

(B) A board may adopt a resolution under this section only if the board finds that placing the road on nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or on any other road located in the immediate vicinity of that road as determined by the overall use of the road during the preceding twenty-one years.

(C) A board may terminate the nonmaintained status of a county road by adopting a resolution to that effect. If the owner of land adjoining a road that has been placed on nonmaintained status requests the board to terminate the nonmaintained status of the road, the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to locally adopted county standards.

(D) A graveled road may not be placed on nonmaintained status if any person resides in a residence adjacent to the road, the road is the exclusive means for obtaining access to the residence, and the residence is the person's primary place of residence.

Sec. 5543.01. (A) Except as provided in division (B) of this section, the county engineer shall have general charge of the following:

(1) Construction, reconstruction, improvement, maintenance, and repair of all bridges and highways within the engineer's county, under the jurisdiction of the board of county commissioners, except for those county roads the board places on nonmaintained status pursuant to section 5541.05 of the Revised Code;

(2) Construction, reconstruction, resurfacing, or improvement of roads by boards of township trustees under sections 5571.01, 5571.06, 5571.07,

5571.15, 5573.01 to 5573.15, and 5575.02 to 5575.09 of the Revised Code;

(3) Construction, reconstruction, resurfacing, or improvement of the roads of a road district under section 5573.21 of the Revised Code.

(B) For any particular project, after notifying the county engineer, the board of township trustees of a township that has adopted a limited home rule government under Chapter 504. of the Revised Code may hire an independent professional engineer to be in charge of those activities listed in division (A)(2) of this section. The county engineer shall review all of the independent professional engineer's plans for improvements and provide the board of township trustees with comments on those plans within ten working days after receiving them. The county engineer shall monitor all plans for improvements in order to maintain compliance with existing construction standards and thoroughfare plans, and coordinate construction timelines within the county.

(C) The county engineer may not perform any duties in connection with the repair, maintenance, or dragging of roads by boards of township trustees, except that, upon the request of any board of township trustees, the county engineer shall inspect any road designated by it and advise as to the best methods of repairing, maintaining, or dragging that road.

Sec. 5553.04. When the board of county commissioners is of the opinion that it will be for the public convenience or welfare to locate, establish, alter, widen, straighten, vacate, or change the direction of a public road, it shall so declare by resolution, which resolution shall set forth the general route and termini of the road, or part thereof of the road, to be located, established, or vacated, or the general manner in which such the road is to be altered, widened, or straightened, or the direction thereof of the road is to be changed.

When a petition, signed by at least twelve freeholders of the county residing in the vicinity of the proposed improvement, or signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, is presented to the board requesting the board to locate, establish, alter, widen, straighten, vacate, or change the direction of a public road, such the board shall view the location of the proposed improvement, and, if it is of the opinion that it will be for the public convenience or welfare to make such the improvement, it may proceed to make such the improvement as provided in sections 5553.04 to 5553.16, inclusive, of the Revised Code. Such The petition shall set forth the general route and termini of the road, or part thereof of the road, to be located, established, or vacated, or the general manner in which such the road is to be altered, widened, or straightened, or the direction thereof of the road is to be changed. When the

board declares by resolution its intention to proceed with the improvement, it ~~may~~ also may provide in ~~such~~ the resolution for the establishment of an appropriate detour route or for the temporary closing of the road to be improved. When the petition presented to the board for a proposed improvement as provided in this section; is a petition signed by the owner of the right to mine coal lying under or adjacent to the proposed improvement, ~~such~~ that petitioner shall pay the costs and expenses incurred by ~~such~~ the board in connection with the proceedings initiated by ~~such~~ the petition, and the costs and expenses of making ~~such~~ the improvement including compensation and damages, and including the cost of relocation of any conduits, cables, wires, towers, poles, or other equipment or appliances of any public utility or electric cooperative as defined in section 4928.01 of the Revised Code, located on, over, or under the portion of the road affected by ~~such~~ the improvement, and, on demand by the board, shall give bond to the satisfaction of the board in ~~such~~ the amount as the board determines; to secure the payment of all ~~such~~ of those costs and expenses.

Sec. 5553.042. A (A) As used in this section:

(1) "Electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

(2) "Service facilities" includes any conduit, cable, wire, tower, pole, or other equipment or appliance of a public utility or electric cooperative.

(B) A township shall lose all rights in and to any public road, highway, street, or alley which has been abandoned and not used for a period of twenty-one years, after formal proceedings for vacation as provided in sections 5553.04 to 5553.11 of the Revised Code have been taken; and upon. Upon petition for vacation of such ~~a public~~ road, highway, street, or alley filed with the board of county commissioners by any abutting landowner, if the board finds that ~~said~~ the public road, highway, street, or alley has been abandoned and not used for a period of twenty-one years as alleged in ~~such~~ the petition, the board ~~of county commissioners~~ may, by resolution, may order the road, highway, street, or alley vacated, and ~~such~~ the road, highway, street, or alley shall pass, in fee, to the abutting landowners ~~thereof~~, as provided by law, and subject to ~~the preservation of~~ any all of the following:

(1) Any existing right of way in, over, or under ~~such roadway by the road, highway, street, or alley for the service facilities of~~ any public utility or ~~rural electric co-operative~~ service facilities, including any conduit, cable, wires, towers, poles, or other equipment or appliances of any public utility or ~~rural electric co-operative~~ located on, over, or under such roadway and cooperative for such period of time as long as ~~such~~ the public utility or ~~rural~~

~~electric cooperative service facilities continue to be used cooperative continues to render service to the public and also subject to the:~~

~~(2) The right of ingress and egress for the purpose of servicing and maintaining the same, and subject to the preservation of a for a public utility or electric cooperative to service and maintain its service facilities as provided under section 5553.043 of the Revised Code;~~

~~(3) The right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the right of way that may affect the operation, use, or access to service facilities;~~

~~(4) Any right of way for public nonmotorized vehicular recreational use as provided under section 5553.044 of the Revised Code.~~

Sec. 5553.043. When any street, highway, or road, or a portion thereof of any street, highway, or road, is vacated pursuant to the provisions of any section of ~~Chapters 5553. this chapter or Chapter 5571.~~ of the Revised Code, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, tracks, or other equipment or appliances of any electric cooperative, railroad, or public utility, whether owned privately or by any governmental authority, located on, over, or under the portion of the street, highway, or road affected by ~~any such the~~ vacation, ~~is are~~ not required for purposes of the vacating authority, any affected electric cooperative, railroad, or public utility company shall be deemed to have a permanent easement in ~~such the~~ vacated portion of ~~such the~~ street, highway, or road for the purpose of accessing, maintaining, operating, renewing, reconstructing, and removing ~~said those~~ utility facilities ~~and for purpose of access to said facilities. Nothing The permanent easement also confers a right of ingress and egress to service and maintain those utility facilities and a right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those utility facilities.~~

Nothing in this section shall be construed to relieve an owner of the right to mine coal who petitions for a proposed improvement from the obligation to pay the relocation costs and expenses of public utility ~~or electric cooperative~~ facilities as provided in ~~Chapter 5553. this chapter or Chapter 5571.~~ of the Revised Code.

As used in this section, "electric cooperative" has the same meaning as in section 4928.01 of the Revised Code.

Sec. 5553.045. (A) As used in this section, "road" means a road, or portion of a road, which is not used to calculate distributions of the auto registration distribution fund under division (E) of section 4501.04 of the Revised Code and, thus, is not a road or portion of a road certified by the

board of township trustees to the director of transportation in accordance with that division as mileage in the township used by and maintained for the public.

(B) A board of township trustees may petition the board of county commissioners to vacate a township road or a portion of a township road by passing a resolution that requests the vacation of the road or portion and includes a description of the general route and termini of the road or portion. The township clerk shall file a copy of the resolution with the board of county commissioners and certify another copy to the county engineer. Within thirty days after receipt of that copy of the resolution, the engineer shall issue to the board of county commissioners a written report similar in content to reports required under section 5553.06 of the Revised Code. The failure of the engineer to provide this report does not affect the actions required under this section and does not invalidate the vacation of a road or portion of a road under this section.

(C) Upon receipt of the copy of the township's resolution, the board of county commissioners shall set a date for a public hearing on the vacation of the road or portion of the road that is not more than forty-five days after the date that the resolution is filed with the board. The clerk of the board shall notify by regular mail the landowners abutting the road or portion of the road proposed to be vacated. That notice shall be sent at least twenty days before the board's public hearing, shall state that the board of township trustees has filed a resolution requesting the vacation of the specified road or portion of the road under this section, and shall inform the landowners of the time and place of the public hearing on this issue. The notice shall be mailed to the addresses of the abutting landowners as they appear on the county auditor's current tax list or the county treasurer's mailing list. Failure of the delivery of this notice to any abutting landowner does not invalidate the vacation of a road or a portion of a road under this section.

(D) After the public hearing, if the board of county commissioners determines that the vacation of the road or portion of the road would be for the public convenience or welfare, it shall adopt a resolution by a majority vote declaring the road or portion to be vacated and file a certified copy of the resolution with the petitioner board of township trustees, the county recorder, and the county engineer.

If the board of county commissioners fails to vote on the issue of vacating the road or portion of the board within sixty days after the township's resolution is filed with it, the road or portion of the road specified in the resolution shall be deemed to be vacated, and the petitioner board of township trustees shall adopt another resolution describing the road or

portion of the road that has been vacated and explaining this vacation is by action of this section. The board of township trustees shall file a certified copy of that resolution with the board of county commissioners, the county recorder, and the county engineer.

(E) Once the certified copies of the resolution declaring a road or portion of a road vacated are filed as provided in division (D) of this section, the board of township trustees, by resolution, shall order the road or portion of the road vacated. The vacated road or portion of the road shall pass, in fee, to the abutting landowners subject to all of the following:

(1) A permanent easement as provided in section 5553.043 of the Revised Code in, over, or under the road for the service facilities, as defined in section 5553.042 of the Revised Code, of a public utility or electric cooperative as defined in section 4928.01 of the Revised Code;

(2) The right of ingress or egress to service and maintain those service facilities;

(3) The right to trim or remove any trees, shrubs, brush, or other obstacles growing in or encroaching onto the permanent easement that may affect the operation, use, or access to those service facilities.

Sec. 5555.02. The board of county commissioners may construct a public road by laying out and building a new road, or by improving, reconstructing, or repairing any existing public road or part thereof of an existing public road by grading, paving, widening, altering, straightening, vacating, changing the direction, draining, dragging, graveling, macadamizing, resurfacing, applying dust preventives, or by otherwise improving the same, and, where an established road has been relocated, the board may construct and maintain such connecting roads between the old and new locations as will provide reasonable access thereto. The board also may place a county road on nonmaintained status pursuant to section 5541.05 of the Revised Code. The board may purchase or lease, erect, and maintain automatic traffic signals at such intersections of public highways outside municipal corporations as are necessary for the protection of the public traveling upon such those highways. Automatic traffic signals shall not be placed at intersections of public highways on the state highway system unless the board first obtains the approval of the director of transportation.

This section does not apply to roads or highways on the state highway system, except such portions as the board constructs under plans and specifications approved by the director and under his the director's supervision and inspection.

Sec. 5571.02. The board of township trustees shall have control of the

township roads of its township and, except for those township roads the board places on nonmaintained status pursuant to section 5571.20 of the Revised Code, shall keep them in good repair. The board of township trustees may, with the approval of the board of county commissioners or the director of transportation, may maintain or repair a county road, or intercounty highway, or state highway within the limits of its township.

In the maintenance and repair of roads, the board of township trustees may proceed in any of the following methods:

(A) It may designate one of its number to have charge of the maintenance and repair of roads within the township.

(B) It may divide the township into three road districts, in which event each trustee shall have charge of the maintenance and repair of roads within one of such those districts.

(C) It may appoint some competent person, not a member of the board of township trustees, to have charge of maintenance and repair of roads within the township, who shall be known as "township highway superintendent" and shall serve at the pleasure of the board ~~of township trustees~~.

The method to be followed in each township shall be determined by the board of township trustees by resolution entered on its records.

Sec. 5571.08. The Except as provided in section 5571.20 of the Revised Code, the board of township trustees shall cause all the township roads within the township to be kept free from obstruction by snow. The cost and expense thereof shall be paid from the road funds of the township or from the funds allocated to the township by section 5735.27 of the Revised Code.

Sec. 5571.12. The Except as provided in section 5571.20 of the Revised Code, the board of township trustees shall cause the graveled and unimproved public roads of the township to be dragged. At the beginning of each fiscal half year, the board, before making any other appropriations from the township road fund, shall appropriate and set aside a sum sufficient to meet the expense of dragging the graveled and unimproved public roads of the township during the ensuing six months. Such That sum shall not be used for any purpose other than that for which it was appropriated.

The board ~~shall~~ from time to time shall designate the roads to be dragged and furnish suitable road drags, hones, scrapers, or other tools, which shall be paid for out of the road fund. The work of dragging the graveled and unimproved public roads of the township, or of any road district thereof of the township, shall be done under the supervision of one of the township trustees or the township highway superintendent designated to have charge of the maintenance and repair of roads as provided in section

5571.02 of the Revised Code. ~~Such That~~ trustee or superintendent shall employ the necessary labor and teams at a price to be fixed by the board. Bills for dragging shall be paid from the dragging fund upon the order of the board.

Sec. 5571.20. (A) Except as otherwise provided in division (D) of this section, a board of township trustees by resolution may place a graveled or unimproved township road under its jurisdiction or any portion of such a road on nonmaintained status. Upon adoption of such a resolution, the board is not required to cause the road to be dragged at any time, or to cut, destroy, or remove any brush, weeds, briars, bushes, or thistles upon or along the road, or to remove snow from the road, or to maintain or repair the road in any manner. The board, in its discretion, may cause any of these actions to be performed on or to a road that it has placed on nonmaintained status.

(B) A board may adopt a resolution under this section only if the board finds that placing the road on nonmaintained status will not unduly adversely affect the flow of motor vehicle traffic on that road or on any other road located in the immediate vicinity of that road as determined by the overall use of the road during the preceding twenty-one years.

(C) A board may terminate the nonmaintained status of a township road by adopting a resolution to that effect. If the owner of land adjoining a road that has been placed on nonmaintained status requests the board to terminate the nonmaintained status of the road, the board, in its resolution that terminates that nonmaintained status, may require the owner to pay the costs of upgrading the road to locally adopted township standards.

(D) A graveled road may not be placed on nonmaintained status if any person resides in a residence adjacent to the road, the road is the exclusive means for obtaining access to the residence, and the residence is the person's primary place of residence.

SECTION 2. That existing sections 309.09, 5543.01, 5553.04, 5553.042, 5553.043, 5555.02, 5571.02, 5571.08, and 5571.12 of the Revised Code are hereby repealed.

SECTION 3. That sections 1509.03 and 1509.06 of the Revised Code as they result from Sub. H.B. 278 of the 125th General Assembly contingently be amended to read as follows:

Sec. 1509.03. The chief of the division of mineral resources management shall adopt, rescind, and amend, in accordance with Chapter 119. of the Revised Code, rules for the administration, implementation, and

enforcement of this chapter. The rules shall include an identification of the subjects that the chief shall address when attaching terms and conditions to a permit with respect to a well and production facilities of a well that are located within ~~a municipal corporation or within a township that has a population of more than fifteen thousand in the most recent federal decennial census prior to the issuance of the permit an urbanized area.~~ The subjects shall include all of the following:

- (A) Safety concerning the drilling or operation of a well;
- (B) Protection of the public and private water supply;
- (C) Location of surface facilities of a well;
- (D) Fencing and screening of surface facilities of a well;
- (E) Containment and disposal of drilling and production wastes;
- (F) Construction of access roads for purposes of the drilling and operation of a well.

No person shall violate any rule of the chief adopted under this chapter.

Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to this chapter shall be made in compliance with Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by mail. Every order issuing, denying, or modifying a permit under this chapter and described as such shall be considered an adjudication order for purposes of Chapter 119. of the Revised Code.

Where notice to the owners is required by this chapter, the notice shall be given as prescribed by a rule adopted by the chief to govern the giving of notices. Such rule shall provide for notice by publication except in those cases where other types of notice are necessary in order to meet the requirements of the law.

The chief or the chief's authorized representative may at any time enter upon lands, public or private, for the purpose of administration or enforcement of this chapter, the rules adopted or orders made thereunder, or terms or conditions of permits or registration certificates issued thereunder and may examine and copy records pertaining to the drilling, conversion, or operation of a well for injection of fluids and logs required by division (C) of section 1509.223 of the Revised Code. No person shall prevent or hinder the chief or the chief's authorized representative in the performance of official duties. If entry is prevented or hindered, the chief or the chief's authorized representative may apply for, and the court of common pleas may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

The chief may issue orders to enforce this chapter, rules adopted thereunder, and terms or conditions of permits issued thereunder. Any such

order shall be considered an adjudication order for the purposes of Chapter 119. of the Revised Code. No person shall violate any order of the chief issued under this chapter. No person shall violate a term or condition of a permit or registration certificate issued under this chapter.

Orders of the chief denying, suspending, or revoking a registration certificate; approving or denying approval of an application for revision of a registered transporter's plan for disposal; or to implement, administer, or enforce division (A) of section 1509.224 and sections 1509.22, 1509.222, 1509.223, 1509.225, and 1509.226 of the Revised Code pertaining to the transportation of brine by vehicle and the disposal of brine so transported are not adjudication orders for purposes of Chapter 119. of the Revised Code. The chief shall issue such orders under division (A) or (B) of section 1509.224 of the Revised Code, as appropriate.

As used in this section, "urbanized area" means an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than five thousand in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities.

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 mineral resources management 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 the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of 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) 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;

(I) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of occupied dwelling units shall be determined using the tax records of the municipal corporation or county in which the dwelling unit is located as of the date of the notice.

(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.

(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;

(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 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 (K) of this section, and any additional information the chief prescribes. In addition, the chief promptly shall transfer an electronic copy or facsimile, or

if those methods are not available to a municipal corporation or township, a copy via regular mail, of a drilling permit application to the clerk of the legislative authority of the municipal corporation or to the clerk of the township in which the well or proposed well is or is to be located if the ~~municipal corporation or township has a population of more than fifteen thousand in the most recent federal decennial census prior to the submission of the application, the~~ legislative authority of the municipal corporation or the board of township trustees has asked to receive copies of such applications; and the appropriate clerk has provided the chief an accurate, current electronic mailing address or facsimile number, as applicable.

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, 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 the chief denies the application by order.

An applicant may file a request with the chief for expedited review of 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.

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 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 other means that in the judgment of the chief will provide timely notice of the application and request. The chief shall issue a permit within seven days of the filing of the request unless 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 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 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, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code.

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 after finding that any person is causing, engaging in, or maintaining a condition or activity that in 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 in a coal bearing township after determining that the drilling or reopening activities present an imminent and substantial threat to public health or safety or to miners' health or safety. 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 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 or to miners' health or safety, if applicable. In the case of activities in a coal bearing township, if the chief, after considering evidence presented by the owner, determines that the activities do not present such a threat, the chief shall revoke the suspension order. Notwithstanding any provision of this chapter, the owner may appeal a suspension order directly to the court of common pleas of the county in which the activity is located or, if in a coal bearing township, to the reclamation commission under section 1513.13 of the Revised Code.

SECTION 4. That existing sections 1509.03 and 1509.06 of the Revised Code as they result from Sub. H.B. 278 of the 125th General Assembly are hereby contingently repealed.

SECTION 5. The amendment by this act of sections 1509.03 and 1509.06 of the Revised Code as they result from Sub. H.B. 278 of the 125th General Assembly is contingent upon those sections becoming law in the same form as they were passed by the Senate on April 27, 2004, 150 Senate Journal 1769.

SECTION 6. If the amendment of sections 1509.03 and 1509.06 of the Revised Code by Sections 3, 4, and 5 of this act occurs, those sections as amended by this act take effect on the effective date of Sub. H.B. 278 of the 125th General Assembly or the earliest date permitted by law, whichever is later.

SECTION 7. If any provision of section 1509.03 or 1509.06 of the Revised Code, as those sections have been amended by this act, or the application of those sections to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of those sections that can be given effect without the invalid provision or application, and to this end the provisions of those sections are severable.

SECTION 8. (A) There is hereby created the Oil and Gas Advisory Council consisting of the Director of Natural Resources and the Chief of the Division of Mineral Resources Management, or their designees, as members ex officio and seven members to be appointed by the Director. Of the appointed members, one shall represent the interests of counties, one shall represent the interests of municipal corporations, one shall represent the interests of townships, one shall represent the interests of owners of natural gas wells, one shall represent the owners of oil wells, one shall represent the interests of contractors engaged in drilling, fracturing, producing, or servicing oil and gas wells, and one shall represent a statewide environmental advocacy organization.

Not later than ninety days after the effective date of this act, the Director shall make appointments to the Council. Vacancies shall be filled in the

manner provided for original appointments.

The Director, or the Director's designee, shall serve as chairperson of the Council. The Council shall select from among its members a vice-chairperson and a secretary who shall make a record of its proceedings. The Council shall meet at times that the chairperson considers appropriate. A majority vote of the members of the Council is necessary to take action on any matter.

Serving as a member of 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. Appointed members of the Council shall serve without compensation for attending Council meetings.

The Council shall advise and assist the Chief in adopting rules under section 1509.03 of the Revised Code identifying the subjects to be addressed by the Chief when attaching terms and conditions to permits for wells and production facilities of wells that are located in specified areas. The Council shall cease to exist when the rules are adopted.

(B) The enactment of this section is contingent on the amendments to section 1509.03 of the Revised Code made by Sub. H.B. 278 of the 125th General Assembly becoming law in the same form as they were passed by the Senate on April 27, 2004, 150 Senate Journal 1769.

SECTION 9. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for the necessity is that immediate action is necessary to avoid the undue financial burden on local governments to maintain roads that are no longer in general use. Therefore, this act shall go into immediate effect.

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 _____