

# AN ACT

To amend sections 123.04, 303.14, 307.37, 519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 3745.08, 4115.04, 4501.01, and 5749.02; to enact sections 303.141, 519.141, 1501.45, 1513.075, 1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 1514.051, 1514.40 to 1514.47, 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 1565.01, 1567.01, 1571.011, 2305.041, 3734.61 to 3734.65, 5577.081, and 5749.11; and to repeal sections 1502.11, 1513.10, 1521.08, and 1533.78 of the Revised Code to revise the statutes governing the Department of Natural Resources; to make changes to the law governing coal mining, including increasing the severance tax on coal and revising the distribution of revenue from that tax; to make

changes to the law governing the mining of industrial minerals, including revising zoning provisions related to such mining; to establish requirements governing mercury; and to make other changes.

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

SECTION 1. That sections 123.04, 303.14, 307.37, 519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 3745.08, 4115.04, 4501.01, and 5749.02 be amended and sections 303.141, 519.141, 1501.45, 1513.075, 1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 1514.051, 1514.40, 1514.41, 1514.42, 1514.43, 1514.44, 1514.45, 1514.46, 1514.47, 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 1565.01, 1567.01, 1571.011, 2305.041, 3734.61, 3734.62, 3734.63, 3734.64, 3734.65, 5577.081, and 5749.11 of the Revised Code be enacted to read as follows:

Sec. 123.04. The director of administrative services shall be appointed superintendent of public works and shall have the care and control of the public works of the state ~~except as provided in section 1521.08 of the Revised Code~~ and shall protect, maintain, and keep them in repair.

Subject to the approval of the governor, the director may purchase on behalf of the state such real or personal property, rights, or privileges as are necessary, in the director's judgment, to acquire in the maintenance of the public works or their improvement.

Any instrument by which the state or an agency of the state acquires real property pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 303.14. The county board of zoning appeals may:

(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 303.01 to 303.25 of the Revised Code, or of any resolution adopted pursuant thereto;

(B) Authorize upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done;

(C) Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the zoning resolution; If the board considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514. of the Revised Code or activities that are related to making finished aggregate products, the board shall proceed in accordance with section 303.141. of the Revised Code.

(D) Revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals, if any condition of the variance or certificate is violated.

The board shall notify the holder of the variance or certificate by certified mail of its intent to revoke the variance or certificate under division (D) of this section and of ~~his~~ the holder's right to a hearing before the board within thirty days of the mailing of the notice if ~~he~~ the holder so requests. If the holder requests a hearing, the board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person, by ~~his~~ attorney, or by other representative, or ~~he~~ the holder may present ~~his~~ the holder's position in writing. ~~He~~ The holder may present evidence and examine witnesses appearing for or against ~~him~~ the holder. If no hearing is requested, the board may revoke the variance or certificate without a hearing. The authority to revoke a variance or certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above-mentioned powers, ~~such~~ the board may, in conformity with such sections, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end has all powers of the officer from whom the appeal is taken.

Sec. 303.141. (A) If a county board of zoning appeals considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514. of the Revised Code or activities that are related to

making finished aggregate products, the board shall not consider or base its determination on matters that are regulated by any federal, state, or local agency. However, the board may require as a condition of the approval of a conditional zoning certificate for such an activity compliance with any general standards contained in the zoning resolution that apply to all conditional uses that are provided for in the zoning resolution and, except as provided in division (C) of this section, may require any specified measure, including, but not limited to, one or more of the following:

(1) Inspections of nearby structures and water wells to determine structural integrity and water levels;

(2) Compliance with applicable federal, state, and local laws and regulations;

(3) Identification of specific roads in accordance with division (B) of this section to be used as the primary means of ingress to and egress from the proposed activity;

(4) Compliance with reasonable noise abatement measures;

(5) Compliance with reasonable dust abatement measures;

(6) Establishment of setbacks, berms, and buffers for the proposed activity;

(7) Establishment of a complaint procedure;

(8) Any other measure reasonably related to public health and safety.

(B)(1) For purposes of this section and section 519.141 of the Revised Code, and prior to the submission of an application for a conditional zoning certificate, an applicant shall send written notice to the county engineer of the applicant's intent to apply for a conditional zoning certificate. Not later than fourteen days after receipt of the written notice, the county engineer shall establish the time, date, and location of a meeting with the applicant and send written notice of the time, date, and location of the meeting to the applicant and to the fiscal officer of each township in which the proposed activity is to be located or expanded. At the meeting, the applicant shall explain the proposed location of the activity or expansion of an existing activity, the anticipated amount of aggregate material to be shipped by truck from the activity, and the anticipated primary market areas for the finished aggregate products leaving the activity.

Not later than thirty days after the meeting with the applicant, the county engineer shall submit a written recommendation of specific roads to be used as the primary means of ingress to and egress from the proposed activity to the board of county commissioners. In making the recommendation, the county engineer shall consider all of the following:

(a) The ability of each road to handle the anticipated recurring loads

resulting from trucks entering and leaving the proposed activity;

(b) The present condition of each road;

(c) The amount of residential development that exists along each road;

(d) The most direct route from the proposed activity to a state highway unless another route is more capable of accommodating the anticipated recurring loads and will result in fewer conflicts with existing residential development.

(2) At the next regularly scheduled meeting of the board of county commissioners after receipt of a written recommendation under division (B)(1) of this section, the board shall adopt the recommendation or adopt the recommendation with modifications. If the board adopts the recommendation with modifications, the board shall base the modifications only on the criteria established in divisions (B)(1)(a) to (d) of this section. The board may adopt the recommendation with modifications only by a unanimous vote. The board shall send written notice of the adoption of the recommendation or the recommendation with modifications to the county board of zoning appeals.

(3) For purposes of this section and section 519.141 of the Revised Code, a decision of a board of county commissioners under division (B)(2) of this section is final ten days after the board adopts the recommendation or the recommendation with modifications unless the applicant or an affected board of township trustees submits written notice of appeal within ten days after the board's action. If the board of county commissioners receives a timely written notice of appeal, the board shall conduct an appeal hearing concerning its decision not later than fourteen days after receipt of the notice. If the board of county commissioners receives more than one timely written notice of appeal, the board may conduct one appeal hearing concerning all of the notices of appeal.

For purposes of an appeal hearing that is held under this division, the applicant or a board of township trustees that submitted written notice of appeal may present testimony for the board of county commissioners to consider concerning its decision under division (B)(2) of this section. At the hearing, the applicant or the board of township trustees may be represented by an attorney. A witness at the hearing shall testify under oath or affirmation, which any member of the board of county commissioners may administer. A witness at the hearing shall be subject to cross-examination.

Not later than fourteen days after the hearing, the board of county commissioners shall affirm its decision under division (B)(2) of this section or, based on the testimony at the hearing, modify its decision. The board shall send written notice of its decision to the applicant, any board of

township trustees that submitted written notice of appeal, and the county board of zoning appeals.

A decision of a board of county commissioners under this division is final unless vacated or modified upon judicial review.

(4) An applicant or a board of township trustees that submitted written notice of appeal under division (B)(3) of this section may appeal a decision of a board of county commissioners under that division to the court of common pleas of the county in which the activity is proposed to be located or expanded pursuant to section 2506.01 of the Revised Code.

(C) When granting a conditional zoning certificate, a county board of zoning appeals shall not require the identification of specific roads, as otherwise authorized in division (A)(3) of this section, and the identification of specific roads in accordance with division (B) of this section shall not apply, for any of the following:

(1) The transfer of unfinished aggregate material between facilities that are under the control of the same owner or operator;

(2) The loading or unloading of finished aggregate product within a ten-mile radius of a surface mining operation;

(3) The expansion of an existing surface mining operation when the specific road that is used as the primary means of ingress to and egress from the operation will be the same road that is used for that purpose after the expansion of the facility.

(D) The identification of specific roads in accordance with division (B) of this section to be used as the primary means of ingress to and egress from a proposed activity becomes effective only upon the granting of a conditional zoning certificate.

(E) As used in this section, "surface mining operation" has the same meaning as in section 1514.01 of the Revised Code.

Sec. 307.37. (A) As used in division (B)(3) of this section, "proposed new construction" means a proposal to erect, construct, repair, alter, redevelop, or maintain a single-family, two-family, or three-family dwelling or any structure that is regulated by the Ohio building code.

(B)(1)(a) The board of county commissioners may adopt local residential building regulations governing residential buildings as defined in section 3781.06 of the Revised Code, to be enforced within the unincorporated area of the county or within districts the board establishes in any part of the unincorporated area. No local residential building regulation shall differ from the state residential building code the board of building standards establishes pursuant to Chapter 3781. of the Revised Code unless the regulation addresses subject matter not addressed by the state residential

building code or is adopted pursuant to section 3781.01 of the Revised Code.

(b) The board of county commissioners may, by resolution, adopt, administer, and enforce within the unincorporated area of the county, or within districts the board establishes in the unincorporated area, an existing structures code pertaining to the repair and continued maintenance of structures and the premises of those structures provided that the existing structures code governs subject matter not addressed by, and is not in conflict with, the state residential building code adopted pursuant to Chapter 3781. of the Revised Code. The board may adopt by incorporation by reference a model or standard code prepared and promulgated by the state, any agency of this state, or any private organization that publishes a recognized or standard existing structures code.

(c) The board shall assign the duties of administering and enforcing any local residential building regulations or existing structures code to a county officer or employee who is trained and qualified for those duties and shall establish by resolution the minimum qualifications necessary to perform those duties.

(2) The board may adopt regulations for participation in the national flood insurance program ~~established in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, defined in section 1521.01 of the Revised Code~~ and regulations ~~adopted~~ for the purposes of section 1506.04 or 1506.07 of the Revised Code governing the prohibition, location, erection, construction, redevelopment, or floodproofing of new buildings or structures, substantial improvements to existing buildings or structures, or other development in unincorporated territory within flood hazard areas identified under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion areas identified under section 1506.06 of the Revised Code, including, but not limited to, residential, commercial, institutional, or industrial buildings or structures or other permanent structures, as defined in section 1506.01 of the Revised Code. Rules adopted under division (B)(2) of this section shall not conflict with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code.

(3)(a) A board may adopt regulations that provide for a review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued in order to prevent or correct any adverse effects that the proposed new construction may have on existing surface or

subsurface drainage. The regulations shall not be inconsistent with, more stringent than, or broader in scope than standards adopted by the natural resource conservation service in the United States department of agriculture concerning drainage or rules adopted by the environmental protection agency for reducing, controlling, or mitigating storm water runoff from construction sites, where applicable. The regulations shall allow a person who is registered under Chapter 4703. or 4733. of the Revised Code to prepare and submit relevant plans and other documents for review, provided that the person is authorized to prepare the plans and other documents pursuant to the person's registration.

(b) If regulations are adopted under division (B)(3) of this section, the board shall specify in the regulations a procedure for the review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The procedure shall include at a minimum all of the following:

(i) A meeting at which the proposed new construction shall be examined for those specific effects. The meeting shall be held within thirty days after an application for a building permit is filed or a review is requested unless the applicant agrees in writing to extend that time period or to postpone the meeting to another date, time, or place. The meeting shall be scheduled within five days after an application for a building permit is filed or a review is requested.

(ii) Written notice of the date, time, and place of that meeting, sent by regular mail to the applicant. The written notice shall be mailed at least seven days before the scheduled meeting date.

(iii) Completion of the review by the board of county commissioners not later than thirty days after the application for a building permit is filed or a review is requested unless the applicant has agreed in writing to extend that time period or postpone the meeting to a later time, in which case the review shall be completed not later than two days after the date of the meeting. A complete review shall include the issuance of any order of the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage so long as those alterations comply with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code. If the review is not completed within the thirty-day period or an extended or postponed period that the applicant has agreed to, the proposed new construction shall be deemed to have no adverse effects on existing surface or subsurface drainage, and those effects shall not be a valid

basis for the denial of a building permit.

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division (B)(3)(b)(iii) of this section by filing a petition in accordance with Chapter 2506. of the Revised Code.

(c) The regulations may authorize the board, after obtaining the advice of the county engineer, to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage.

(d) Regulations adopted pursuant to division (B)(3) of this section shall not apply to any property that a platting authority has approved under section 711.05, 711.09, or 711.10 of the Revised Code and shall not govern the same subject matter as the state residential or nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code.

(e) As used in division (B)(3) of this section, "subsurface drainage" does not include a household sewage treatment system as defined in section 3709.091 of the Revised Code.

(C)(1) Any regulation, code, or amendment may be adopted under this section only after a public hearing at not fewer than two regular or special sessions of the board. The board shall cause notice of any public hearing to be published in a newspaper of general circulation in the county once a week for the two consecutive weeks immediately preceding the hearing, except that if the board posts the hearing notice on the board's internet site on the world wide web, the board need publish only one notice of the hearing in a newspaper of general circulation if that newspaper notice includes the board's internet site and a statement that the notice is also posted on the internet site. Any notice of a public hearing shall include the time, date, and place of the hearing.

(2) Any proposed regulation, code, or amendment shall be made available to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption.

(D)(1) No person shall violate any regulation, code, or amendment the board adopts under sections 307.37 to 307.40 of the Revised Code.

(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense.

(E) Regulations or amendments the board adopts pursuant to this

section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the regulation or amendment.

(F)(1) The board may create a building department and employ the personnel it determines necessary to administer and enforce any local residential building regulations or existing structures code the board adopts pursuant to this section. The building department may enforce the state residential and nonresidential building codes adopted pursuant to Chapter 3781. of the Revised Code if the building department is certified pursuant to section 3781.10 of the Revised Code to enforce those codes.

(2) The board may direct the building department, upon certification, to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for the class of building for which the department and personnel are certified.

Sec. 519.14. The township board of zoning appeals may:

(A) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto;

(B) Authorize, upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done;

(C) Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates for specific uses are provided for in the zoning resolution. If the board considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514. of the Revised Code or activities that are related to making finished aggregate products, the board shall proceed in accordance with section 519.141 of the Revised Code.

(D) Revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals, if any condition of the variance or certificate is violated.

The board shall notify the holder of the variance or certificate by certified mail of its intent to revoke the variance or certificate under division (D) of this section and of ~~his~~ the holder's right to a hearing before the board, within thirty days of the mailing of the notice, if ~~he~~ the holder so requests. If the holder requests a hearing, the board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in

person, by ~~his~~ the holder's attorney, or by other representative, or ~~he~~ the holder may present ~~his~~ the holder's position in writing. ~~He~~ The holder may present evidence and examine witnesses appearing for or against ~~him~~ the holder. If no hearing is requested, the board may revoke the variance or certificate without a hearing. The authority to revoke a variance or certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above-mentioned powers, ~~such~~ the board may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end has all powers of the officer from whom the appeal is taken.

Sec. 519.141. (A) If a township board of zoning appeals considers conditional zoning certificates for activities that are permitted and regulated under Chapter 1514. of the Revised Code or activities that are related to making finished aggregate products, the board shall not consider or base its determination on matters that are regulated by any federal, state, or local agency. However, the board may require as a condition of the approval of a conditional zoning certificate for such an activity compliance with any general standards contained in the zoning resolution that apply to all conditional uses that are provided for in the zoning resolution and, except as provided in division (C) of this section, may require any specified measure, including, but not limited to, one or more of the following:

(1) Inspections of nearby structures and water wells to determine structural integrity and water levels;

(2) Compliance with applicable federal, state, and local laws and regulations;

(3) Identification of specific roads in accordance with division (B) of section 303.141 of the Revised Code to be used as the primary means of ingress to and egress from the proposed activity;

(4) Compliance with reasonable noise abatement measures;

(5) Compliance with reasonable dust abatement measures;

(6) Establishment of setbacks, berms, and buffers for the proposed activity;

(7) Establishment of a complaint procedure;

(8) Any other measure reasonably related to public health and safety.

(B)(1) Prior to the submission of an application for a conditional zoning certificate, an applicant, in accordance with division (B) of section 303.141 of the Revised Code, shall send written notice to the county engineer of the

applicant's intent to apply for a conditional zoning certificate. The county engineer and the applicable board of county commissioners shall proceed in accordance with divisions (B)(1) to (3) of section 303.141 of the Revised Code. As provided in division (B)(3) of that section, the applicant or an affected board of township trustees may submit written notice of appeal regarding a decision of the board of county commissioners under division (B)(2) of that section.

(2) An applicant or a board of township trustees that submitted written notice of appeal under division (B)(3) of section 303.141 of the Revised Code may appeal a decision of a board of county commissioners under that division to the court of common pleas of the county in which the activity is proposed to be located or expanded pursuant to section 2506.01 of the Revised Code.

(C) When granting a conditional zoning certificate, a township board of zoning appeals shall not require the identification of specific roads, as otherwise authorized in division (A)(3) of section 303.141 of the Revised Code, and the identification of specific roads in accordance with division (B) of that section shall not apply, for any of the following:

(1) The transfer of unfinished aggregate material between facilities that are under the control of the same owner or operator;

(2) The loading or unloading of finished aggregate product within a ten-mile radius of a surface mining operation;

(3) The expansion of an existing surface mining operation when the specific road that is used as the primary means of ingress to and egress from the operation will be the same road that is used for that purpose after the expansion of the facility.

(D) The identification of specific roads in accordance with this section and division (B) of section 303.141 of the Revised Code to be used as the primary means of ingress to and egress from a proposed activity becomes effective only upon the granting of a conditional zoning certificate.

(E) As used in this section, "surface mining operation" has the same meaning as in section 1514.01 of the Revised Code.

Sec. 1501.011. (A) The department of natural resources has the following powers in addition to its other powers: to prepare, or contract to be prepared, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for, to enter into contracts for, and to supervise the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of any projects, improvements, or buildings, on lands and waters under the control of the department, as may be authorized by legislative appropriations or any other funds available

therefor.

(B) Except ~~in cases of extreme public exigency or emergency as provided in division (E) of this section,~~ the director of natural resources shall publish notice in a newspaper of general circulation in the ~~county region~~ where the ~~contract activity for which bids are submitted is to be let occur and in any other newspapers that the director determines are appropriate,~~ at least once each week for four consecutive weeks, the last publication to be at least eight days preceding the day for opening bids, seeking proposals on each contract for the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of projects, improvements, or buildings, as necessary for compliance with provisions of the act to make appropriations for capital improvements or the act to make general appropriations, and ~~he~~ the director may also advertise in such trade journals as will afford adequate information to the public of the terms of the contract and the nature of the work to be performed, together with the time of the letting and place and manner of receiving proposals, and the places where plans and specifications are on file. A proposal is invalid and shall not be considered by the department unless the form for proposals specified by the department is used without change, alteration, or addition.

(C) Each bidder for a contract for the performance of labor, the furnishing of materials, or the maintenance, construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code. The director may require each bidder to furnish ~~him~~ under oath, upon such printed forms as ~~he~~ the director may prescribe, detailed information with respect to ~~his~~ the bidder's financial resources, equipment, past performance record, organization personnel, and experience, together with such other information as the director considers necessary.

(D) The director shall award the contract to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. The award shall be made within a reasonable time after the date on which the bids were opened, and the successful bidder shall enter into a contract within ten days from the date ~~he~~ the successful bidder is notified that ~~he~~ the contract has been awarded ~~the contract,~~ or within any longer period ~~which~~ that the director considers necessary. ~~When an exigency occurs, or there is immediate danger of such occurrence, which would materially impair the construction or completion of any project, improvement, or building, the director may make necessary plan and specification change orders.~~ Nothing in this section shall preclude the rejection of any bid the acceptance of which is not in the best interests of the state. No contract shall be entered

into until the bureau of workers' compensation has certified that the corporation, partnership, or person awarded the contract has complied with Chapter 4123. of the Revised Code and until, if the bidder awarded the contract is a foreign corporation, the secretary of state has certified that ~~such~~ the corporation is authorized to do business in this state, and until, if the bidder so awarded the contract is a person or partnership nonresident of this state, ~~such~~ the person or partnership has filed with the secretary of state a power of attorney designating the secretary of state as its agency for the purpose of accepting service of process.

~~The director may enter~~ (E) With respect to the director's entering into a contract without advertising for and receiving bids for the performance of labor, the furnishing of materials, or the construction, repair, or maintenance of any projects, improvements, or buildings on lands and waters under the control of the department, both of the following apply:

(1) The director is not required to advertise for and receive bids if the total estimated cost of which the contract is less than ten twenty-five thousand dollars.

(2) The director is not required to advertise for bids, regardless of the cost of the contract, if the contract involves an exigency that concerns the public health, safety, or welfare or addresses an emergency situation in which timeliness is crucial in preventing the cost of the contract from increasing significantly. Regarding such a contract, the director may solicit bids by sending a letter to a minimum of three contractors in the region where the contract is to be let or by any other means that the director considers appropriate.

(F) The director may insert in any contract awarded under this section a clause providing for value engineering change proposals, under which a contractor who has been awarded a contract may propose a change in the plans and specifications of the project that saves the department time or money on the project without impairing any of the essential functions and characteristics of the project such as service life, reliability, economy of operation, ease of maintenance, safety, and necessary standardized features. If the director adopts the value engineering proposal, the savings from the proposal shall be divided between the department and the contractor according to guidelines established by the director, provided that the contractor shall receive at least fifty per cent of the savings from the proposal. The adoption of a value engineering proposal does not invalidate the award of the contract or require the director to rebid the project.

(G) When in the opinion of the department the work under any contract made under this section or any law of the state is neglected by the

. the work completed is deficient in quality or materials, or such the work is not prosecuted with the diligence and force specified or intended in the contract, the department may ~~make requisition upon~~ require the contractor for such additional specific force or materials to be brought into the work under such contract or to remove improper materials from the grounds as in their judgment the contract and its faithful fulfillment requires. Not less than five days' notice in writing of such action shall be served upon the contractor or his agent in charge of the work to provide, at no additional expense to the department, any additional labor and materials that are necessary to complete the improvements at the level of quality and within the time of performance specified in the contract. Procedures concerning such a requirement together with its format shall be specified in the contract. If the contractor fails to comply with ~~such requisition~~ the requirement within fifteen days the period specified in the contract, the department may ~~employ upon~~ take action to complete the work the additional force, or supply the special materials or such part of either as it considers proper, and may remove improper materials from the grounds through other means, up to and including termination of the contract.

(H) When an exigency occurs or there is immediate danger of an exigency that would materially impair the successful bidding, construction, or completion of a project, improvement, or building, the director may revise related plans and specifications as necessary to address the exigency through the issuance of an addendum prior to the opening of bids or, in accordance with procedures established in section 153.62 of the Revised Code, through the issuance of a change order after the contract has been awarded.

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 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 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, preserve 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. 1501.07. The department of natural resources through the division of parks and recreation may plan, supervise, acquire, construct, enlarge, improve, erect, equip, and furnish public service facilities such as inns, lodges, hotels, ~~cabins~~ cottages, camping sites, scenic trails, picnic sites, restaurants, commissaries, golf courses, boating and bathing facilities, and other similar facilities in state parks reasonably necessary and useful in promoting the public use of state parks under its control and may purchase lands or interests in lands in the name of the state necessary for ~~such~~ those purposes.

The chief of the division of parks and recreation shall administer state parks, establish rules, fix fees and charges for admission to parks and for the use of public service facilities therein, establish rentals for the lease of lands or interests therein within a state park the chief is authorized by law to lease,

and exercise all powers of the chief, in conformity with all covenants of the director of natural resources in or with respect to state park revenue bonds and trust agreements securing such bonds and all terms, provisions, and conditions of such bonds and trust agreements. In the administration of state parks with respect to which state park revenue bonds are issued and outstanding, or any part of the moneys received from fees and charges for admission to or the use of facilities, from rentals for the lease of lands or interests or facilities therein, or for the lease of public service facilities are pledged for any such bonds, the chief shall exercise the powers and perform the duties of the chief subject to the control and approval of the director. The acquisition of such lands or interests therein and facilities shall be planned with regard to the needs of the people of the state and with regard to the purposes and uses of such state parks and, except for facilities constructed in consideration of a lease under section 1501.012 of the Revised Code, shall be paid for from the state park fund created in section 1541.22 of the Revised Code or from the proceeds of the sale of bonds issued under sections 1501.12 to 1501.15 of the Revised Code. Sections 125.81 and 153.04 of the Revised Code, insofar as they require a certification by the chief of the division of capital planning and improvement, do not apply to the acquisition of lands or interests therein and public service facilities to be paid for from the proceeds of bonds issued under sections 1501.12 to 1501.15 of the Revised Code.

As used in sections 1501.07 to 1501.14 of the Revised Code, state parks are all of the following:

(A) State reservoirs described and identified in section 1541.06 of the Revised Code;

(B) All lands or interests therein ~~which~~ that are denominated as state parks ~~in division (B) of section 1531.12 and~~ in section 1541.083 of the Revised Code;

(C) All lands or interests therein of the state identified as administered by the division of parks and recreation in the "inventory of state owned lands administered by department of natural resources as of June 1, 1963," as recorded in the journal of the director, which inventory was prepared by the real estate section of the department and is supported by maps on file in the division of real estate and land management;

(D) All lands or interests in lands of the state hereafter designated as state parks in the journal of the director with the approval of the recreation and resources council.

All such state parks shall be exclusively under the control and administration of the division of parks and recreation. With the approval of

the council, the director by order may remove from the classification as state parks any of the lands or interests therein so classified by divisions (C) and (D) of this section, subject to the limitations, provisions, and conditions in any order authorizing state park revenue bonds or in any trust agreement securing such bonds. Lands or interests therein so removed shall be transferred to other divisions of the department for administration or may be sold as provided by law. Proceeds of any sale shall be used or transferred as provided in the order authorizing state park revenue bonds or in the trust agreement and, if no such provision is made, shall be transferred to the state park fund. State parks do not include any lands or interest in lands of the state administered jointly by two or more divisions of the department. The designation of lands as state parks under divisions (A) to (D) of this section shall be conclusive, and those lands shall be under the control of and administered by the division of parks and recreation. No order or proceeding designating lands as state parks or park purchase areas shall be subject to any appeal or review by any officer, board, commission, or court.

Sec. 1501.23. The department of natural resources may utilize the services of volunteers to implement clean-up and beautification programs or any other programs that accomplish any of the purposes of the department. The director of natural resources shall approve all volunteer programs and may recruit, train, and supervise the services of community volunteers or volunteer groups for volunteer programs. In accordance with state guidelines, the director may reimburse volunteers for necessary and appropriate expenses, such as travel expenses, that they incur in the course of their volunteer service to the department. The director may designate volunteers in a volunteer program as state employees for the purpose of motor vehicle accident liability insurance under section 9.83 of the Revised Code, for the purpose of immunity under section 9.86 of the Revised Code, and for the purpose of indemnification from liability incurred in the performance of their duties under section 9.87 of the Revised Code.

Sec. 1501.32. (A) No person shall divert more than one hundred thousand gallons per day of any waters of the state out of the Lake Erie or Ohio river drainage basins to another basin without having a permit to do so issued by the director of natural resources. An application for such a permit shall be filed with the director upon such forms as ~~he~~ the director prescribes. The application shall state the quantity of water to be diverted, the purpose of the diversion, the life of the project for which the water is to be diverted, and such other information as the director may require by rule. Each application shall be accompanied by a nonrefundable fee of one thousand dollars, which shall be credited to the water management fund, which is

hereby created.

(B) The director shall not approve a permit application filed under this section if ~~he~~ the director determines that any of the following ~~apply~~ applies:

(1) During the life of the project for which the water is to be diverted, some or all of the water to be diverted will be needed for use within the basin;

(2) The proposed diversion would endanger the public health, safety, or welfare;

(3) The applicant has not demonstrated that the proposed diversion is a reasonable and beneficial use and is necessary to serve the applicant's present and future needs;

(4) The applicant has not demonstrated that reasonable efforts have been made to develop and conserve water resources in the importing basin and that further development of those resources would engender overriding, adverse economic, social, or environmental impacts;

(5) The proposed diversion is inconsistent with regional or state water resources plans;

(6) The proposed diversion, alone or in combination with other diversions and water losses, will have a significant adverse impact on in-stream uses or on economic or ecological aspects of water levels.

The director may hold public hearings upon any application for a permit.

(C) Whenever the director receives an application under this section to divert water out of the Lake Erie drainage basin, ~~he~~ the director shall notify the governors and premiers of the other great lakes states and provinces, the appropriate water management agencies of those states and provinces, and, when appropriate, the international joint commission and shall solicit their comments and concerns regarding the application. In the event of an objection to the proposed diversion, the director shall consult with the affected great lakes states and provinces to consider the issues involved and seek mutually agreeable recommendations. Before rendering a decision on the permit application, the director shall consider the concerns, comments, and recommendations of the other great lakes states and provinces and the international joint commission, and, in accordance with section 1109 of the "Water Resources Development Act of 1986," 100 Stat. 4230, 42 U.S.C.A. 1962d-20, the director shall not approve a permit application for any diversion to which that section pertains unless that diversion is approved by the governor of each great lakes state as defined in section 1109(c) of that act.

(D) The director shall determine the period for which each permit

approved under this section will be valid and specify the expiration date, but in no case shall a permit be valid beyond the life of the project as stated in the application.

The director shall establish rules providing for the transfer of permits. A permit may be transferred on the conditions that the quantity of water diverted not be increased and that the purpose of the diversion not be changed.

(E)(1) Within a time established by rule, the director shall do one of the following:

(a) Notify the applicant that an application ~~he~~ the applicant filed under this section is approved or denied and, if denied, the reason for denial;

(b) Notify the applicant of any modification necessary to qualify the application for approval.

(2) Any person who receives notice of a denial or modification under division (E)(1) of this section is entitled to a hearing under Chapter 119. of the Revised Code if the person sends a written request for a hearing to the director within thirty days after the date on which the notice is mailed or otherwise provided to the applicant.

(F) The director shall revoke a permit under this section without a prior hearing if ~~he~~ the director determines that the quantity of water being diverted exceeds the quantity stated in the permit application.

The director may suspend a permit if ~~he~~ the director determines that the continued diversion of water will endanger the public health, safety, or welfare. Before suspending a permit, the director shall make a reasonable attempt to notify the permittee that ~~he~~ the director intends to suspend the permit. If the attempt fails, notification shall be given as soon as practicable following the suspension. Within five days after the suspension, the director shall provide the permittee an opportunity to be heard and to present evidence that the continued diversion of water will not endanger the public health, safety, or welfare.

If the director determines before the expiration date of a suspended permit that the diversion of water can be resumed without danger to the public health, safety, or welfare, ~~he~~ the director shall, upon request of the permittee, reinstate the permit.

(G) Any six or more residents of this state may petition the director for an investigation of a withdrawal of water resources that they allege is in violation of a permit issued under this section.

The petition shall identify the permittee and detail the reasons why the petitioners believe that grounds exist for the revocation or suspension of the permit under this section.

Upon receipt of the petition, the director shall send a copy to the permittee and, within sixty days, make a determination whether grounds exist for revocation or suspension of the permit under this section.

(H) Each permittee shall submit to the director an annual report containing such information as the director may require by rule.

(I) The director shall issue a permit under division (A) of this section to any person who lawfully diverted more than one hundred thousand gallons per day of any waters of the state out of the Ohio river drainage basin during the calendar year ending October 14, 1984. A person who is eligible for a permit under this division shall file an application under division (A) of this section not later than one hundred eighty days after the effective date of this amendment.

A person who applies for a permit under this division need not pay the application fee that is otherwise required under division (A) of this section. In addition, divisions (B) to (H) of this section and rules adopted under section 1501.31 of the Revised Code do not apply to an application that is filed or a permit that is issued under this division.

Sec. 1501.45. (A) As used in this section:

(1) "Forfeiture laws" means provisions that are established in Title XXIX of the Revised Code and that govern the forfeiture and disposition of certain property that is seized pursuant to a law enforcement investigation.

(2) "Law enforcement division" means the division of forestry, the division of natural areas and preserves, the division of wildlife, the division of parks and recreation, or the division of watercraft in the department of natural resources.

(3) "Law enforcement fund" means a fund created in this section.

(B) Except as otherwise provided in this section and notwithstanding any provision of the Revised Code that is not in Title XV of the Revised Code to the contrary, the forfeiture laws apply to a law enforcement division that substantially conducts an investigation that results in the ordered forfeiture of property and also apply to the involved forfeiture of property, and the law enforcement division shall comply with those forfeiture laws. Accordingly, the portion of the forfeiture laws that authorizes certain proceeds from forfeited property to be distributed to the law enforcement agency that substantially conducted the investigation that resulted in the seizure of the subsequently forfeited property apply to the law enforcement divisions. If a law enforcement division is eligible to receive such proceeds, the proceeds shall be deposited into the state treasury to the credit of the applicable law enforcement fund.

(C) There are hereby created in the state treasury the division of forestry

law enforcement fund, the division of natural areas and preserves law enforcement fund, the division of wildlife law enforcement fund, the division of parks and recreation law enforcement fund, and the division of watercraft law enforcement fund. The funds shall consist of proceeds from forfeited property that are deposited in accordance with this section. The funds shall be used by the applicable law enforcement division for law enforcement purposes specified in the forfeiture laws; however, a law enforcement division shall not use such funds to pay the salaries of its employees or to provide for any other remuneration of personnel.

(D) If the forfeiture laws conflict with any provisions that govern forfeitures and that are established in another section of Title XV of the Revised Code, the provisions established in the other section of Title XV apply.

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 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~~ Source 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~~ waste source 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.

(J) "Synthetic rubber" means produced or extended rubber and products made from a synthetic rubber base material originating from petrochemical feedstocks, including scrap tires, tire molds, automobile engine belts, brake pads and hoses, weather stripping, fittings, electrical insulation, and other molded objects and parts.

Sec. 1502.03. (A) The chief of the division of recycling and litter prevention shall establish and implement statewide ~~waste~~ waste source 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~~ waste source 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) Education and training concerning recycling and products manufactured with recyclables;

(f) Public awareness campaigns to promote recycling;

(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~~ waste source 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 the chief's responsibilities under this chapter.

Sec. 1502.12. (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The chief of the division of recycling and litter prevention, with the approval of the director of natural resources, may make grants from the fund for the purpose of supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. The grants may be awarded to individuals, businesses, and entities certified under division (A) of section 1502.04 of the Revised Code.

(B) Projects and activities that are eligible for grants under this section shall be evaluated for funding using, at a minimum, the following criteria:

- (1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;
- (2) The degree of local financial support for a proposed project;
- (3) The technical merit and quality of a proposed project.

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 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 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~~ With the approval of the director, coordinate and administer compensatory mitigation grant programs and other programs for streams and wetlands as approved in accordance with certifications and permits issued under sections 401 and 404 of the "Federal Water Pollution Control Act", 91 Stat. 1566(1977), 33 U.S.C.A. 1251, as amended, by the environmental protection agency and the United States army corps of engineers;

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

Sec. 1506.04. (A) ~~No later than six months after the effective date of this section~~ September 15, 1989, each county or municipal corporation within whose jurisdiction is a coastal flood hazard area shall either participate in and remain in compliance with the national flood insurance program ~~established in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended,~~ or shall adopt resolutions or ordinances governing the coastal flood hazard area that meet or exceed the standards required for participation in the regular phase of the national flood insurance program.

(B) If the director of natural resources determines at any time that a county or municipal corporation that is participating in the national flood insurance program ~~as described in division (A) of this section~~ or has adopted resolutions or ordinances under ~~that~~ division (A) of this section is not in compliance with that program or those resolutions or ordinances, as applicable, ~~he~~ the director shall so notify the legislative authority of the county or municipal corporation and shall also notify the legislative authority that it may respond to ~~his~~ the determination in accordance with the procedure for doing so established by rules adopted under section 1506.02 of the Revised Code. If after considering the legislative authority's response the director determines that the county or municipal corporation is still not in compliance with the national flood insurance program or resolutions or ordinances adopted under division (A) of this section, as applicable, ~~he~~ the director may request the attorney general in writing to, and the attorney

general shall, bring an action for appropriate relief in a court of competent jurisdiction against the county or municipal corporation.

(C) The attorney general, upon the written request of the director, shall bring an action for appropriate relief in a court of competent jurisdiction against any development that meets both of the following criteria:

(1) Is located in a county or municipal corporation that is not in compliance with division (A) of this section;

(2) Is not in compliance with the standards of the national flood insurance program established in the "~~Flood Disaster Protection Act of 1973,~~" 87 Stat. 975, 42 U.S.C.A. 4002, as amended.

~~As used in this division, "development" means any artificial change to improved or unimproved real estate, including, without limitation, the construction of buildings and other structures and mining, dredging, filling, grading, paving, excavation, and drilling operations.~~

(D) This section does not apply to any permits or approvals issued by any state agency prior to the effective date of rules adopted under section 1506.02 of the Revised Code for the implementation of this section.

(E) As used in this section, "national flood insurance program" and "development" have the same meanings as in section 1521.01 of the Revised Code.

Sec. 1507.01. There is hereby created in the department of natural resources the division of engineering to be administered by the chief engineer of the department, who shall be a professional engineer registered under Chapter 4733. or a professional architect certified under Chapter 4703. of the Revised Code. The chief engineer shall do all of the following:

(A) Administer this chapter;

(B) Provide engineering, architectural, land surveying, and related administrative and maintenance support services to the other divisions in the department;

(C) Upon request of the director of natural resources, implement the department's capital improvement program and facility maintenance projects, including all associated engineering, architectural, design, contracting, surveying, inspection, and management responsibilities and requirements;

(D) With the approval of the director, act as contracting officer in departmental engineering, architectural, surveying, and construction matters regarding capital improvements except for those matters otherwise specifically provided for in law;

(E) Provide engineering support for the coastal management program established under Chapter 1506. of the Revised Code;

(F) Coordinate the department's roadway maintenance program with the department of transportation pursuant to section 5511.05 of the Revised Code and maintain the roadway inventory of the department of natural resources;

(G) Coordinate the department's projects, programs, policies, procedures, and activities with the United States army corps of engineers;

(H) Subject to the approval of the director, employ professional and technical assistants and such other employees as are necessary for the performance of the activities required or authorized under this chapter, other work of the division, and any other work agreed to under working agreements or contractual arrangements; prescribe their duties; and fix their compensation in accordance with such schedules as are provided by law for the compensation of state employees.

Sec. 1510.04. (A) Independent producers in this state may present the technical advisory council with a petition signed by the lesser of one hundred or ten per cent of all such producers requesting that the council hold a referendum in accordance with section 1510.05 of the Revised Code to establish a marketing program for oil and natural gas or to amend an existing program.

(B) At the time of presentation of the petition to the council under division (A) of this section, the petitioners also shall present the proposed program or amendment, which shall include all of the following:

(1) The rate of assessment to be made on the production of oil and natural gas in this state, which shall not exceed ~~one cent~~ five cents per each gross barrel of oil and ~~one-tenth~~ of one cent per thousand cubic feet of natural gas;

(2) Terms, conditions, limitations, and other qualifications for assessment;

(3) Procedures to refund the assessment.

(C) Before making a decision under this division to approve or disapprove a proposed program or amendment, the council shall publish in at least two appropriate periodicals designated by the council a notice that the program or amendment has been proposed and informing interested persons of the procedures for submitting comments regarding the proposal. After publishing the notice, the council shall provide interested persons with a copy of the proposed program or amendment and an opportunity to comment on the proposed program or amendment for thirty days after the publication of the notice. The petitioners may make changes to the proposed program or amendment based upon the comments received. The council may make technical changes to the proposal to ensure compliance with this

chapter. Subsequent to any changes made by the petitioners or any technical changes made by the council to a proposed program or amendment, the council may approve or disapprove the proposed program or amendment.

(D) If the council approves the proposed program or amendment, with any changes made under division (C) of this section, the council shall hold a referendum in accordance with section 1510.05 of the Revised Code to establish a marketing program for oil and natural gas or to amend an existing program.

Sec. 1511.021. (A) Any person who owns or operates agricultural land or a concentrated animal feeding operation may develop and operate under an operation and management plan approved by the chief of the division of soil and water conservation under section 1511.02 of the Revised Code or by the supervisors of the local soil and water conservation district under section 1515.08 of the Revised Code.

(B) Any person who wishes to make a complaint regarding nuisances involving agricultural pollution may do so ~~only orally~~ orally or by submitting a written, signed, and dated complaint to the chief or to the chief's designee. After receiving an oral complaint, the chief or the chief's designee may cause an investigation to be conducted to determine whether agricultural pollution has occurred or is imminent. After receiving a written, signed, and dated complaint, the chief or the chief's designee shall cause such an investigation to be conducted.

(C) In a private civil action for nuisances involving agricultural pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for agricultural land or a concentrated animal feeding operation is operating under and in substantial compliance with an approved operation and management plan developed under division (A) of this section, with an operation and management plan developed by the chief under section 1511.02 of the Revised Code or by the supervisors of the local soil and water conservation district under section 1515.08 of the Revised Code, or with an operation and management plan required by an order issued by the chief under division (G) of section 1511.02 of the Revised Code. Nothing in this section is in derogation of the authority granted to the chief in division (E) of section 1511.02 and in section 1511.07 of the Revised Code.

Sec. 1513.01. As used in this chapter:

(A) "Approximate original contour" means that surface configuration achieved by backfilling and grading of a mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and

complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the chief of the division of mineral resources management determines that they are in compliance with division (A)(8) of section 1513.16 of the Revised Code.

(B) "Coal mining and reclamation operations" means coal mining operations and all activities necessary and incident to the reclamation of such operations.

(C) "Degrees" means inclination from the horizontal.

(D) "Deposition of sediment" means placing or causing to be placed in any waters of the state, in stream beds on or off the land described in an application for a coal mining permit, or upon other lands any organic or inorganic matter that settles or is capable of settling to the bottom of the waters and onto the beds or lands.

(E) "Imminent danger to the health and safety of the public" means the existence of any condition or practice or violation of a permit or other requirement of this chapter or rule adopted thereunder in a coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person subjected to the same conditions or practices giving rise to the peril would not expose oneself to the danger during the time necessary for abatement.

(F) "Lands eligible for re-mining" means those lands that otherwise would be eligible for expenditures under division (C)(1) of section 1513.37 of the Revised Code.

(G) "Mountain top removal" means a coal mining operation that will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau with no highwalls remaining instead of restoring to approximate original contour, and is capable of supporting postmining uses in accordance with the requirements established by the chief.

(H) "Operation" or "coal mining operation" means:

(1) Activities conducted on the surface of lands in connection with a coal mine, the removal of coal from coal refuse piles, and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the use of explosives and blasting; in situ distillation or retorting; leaching or

other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal at or near the mine site. Such activities do not include any of the following:

(a) The extraction of coal incidental to the extraction of other minerals if the weight of coal extracted is less than one-sixth the total weight of minerals removed, including coal;

(b) The extraction of coal as an incidental part of federal, state, or local highway or other government-financed construction when approved by the chief;

(c) Coal exploration subject to section 1513.072 of the Revised Code.

(2) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities, and for hauling, and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. Separation by a stream, roadway, or utility easement does not preclude two or more contiguous tracts of land from being considered contiguous.

(I) "Operator" means any person conducting a coal mining operation.

(J) "Overburden" means all of the earth and other materials, except topsoil, covering a natural deposit of coal, and also means such earth and other materials after removal from their natural state in the process of coal mining.

(K) "Permit" means a permit to conduct coal mining and reclamation operations issued by the chief pursuant to section 1513.07 or 1513.074 of the Revised Code.

(L) "Permit area" means the area of land to be affected indicated on the approved map submitted by the operator with the application required by section 1513.07 or 1513.074 of the Revised Code.

(M) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any political subdivision, instrumentality, or agency of this state or the United States.

(N) "Pollution" means placing any sediments, solids, or waterborne mining related wastes, including, but not limited to, acids, metallic cations, or their salts, in excess of amounts prescribed by the chief into any waters of

the state or affecting the properties of any waters of the state in a manner that renders those waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of the waters for domestic water supply, industrial or agricultural purposes, or recreation.

(O) "Prime farmland" has the same meaning as that previously prescribed by the secretary of the United States department of agriculture as published in the federal register on August 23, 1977, or subsequent revisions thereof, on the basis of such factors as moisture availability, temperature regime, chemical balance, permeability, surface layer composition, susceptibility to flooding, and erosion characteristics and that historically has been used for intensive agricultural purposes, and as published in the rules adopted pursuant to this chapter.

(P) "Reclamation" means backfilling, grading, resoiling, planting, and other work that has the effect of restoring an area of land affected by coal mining so that it may be used for forest growth, grazing, agricultural, recreational, and wildlife purpose, or some other useful purpose of equal or greater value than existed prior to any mining.

(Q) "Spoil bank" means a deposit of removed overburden.

(R) "Steep slope" means any slope above twenty degrees or such lesser slope as may be defined by the chief after considering soil, climate, and other characteristics of a region.

(S) "Strip mining" means those coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

(T) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

(U) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface or underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction.

(V) "Public roadway" means a road that is all of the following:

(1) Designated as a public road in the jurisdiction within which it is located;

(2) Constructed in a manner consistent with other public roads within

the jurisdiction within which it is located;

(3) Regularly maintained with public funds;

(4) Subject to and available for substantial use by the public.

(W) "Performance security" means a form of financial assurance, including, without limitation, a surety bond issued by a surety licensed to do business in this state; an annuity; cash; a negotiable certificate of deposit; an irrevocable letter of credit that automatically renews; a negotiable bond of the United States, this state, or a municipal corporation in this state; a trust fund of which the state is named a conditional beneficiary; or other form of financial guarantee or financial assurance that is acceptable to the chief.

Sec. 1513.02. (A) The division of mineral resources management shall administer, enforce, and implement this chapter. The chief of the division of mineral resources management 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)~~(1)(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~~ security has been forfeited pursuant to section 1513.16 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.

(8) Establish programs and adopt rules and procedures governing terms, limitations, and conditions for the use of diesel equipment in an underground coal mine.

(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 Chapter 1517. of the Revised Code, wild, scenic, or recreational river areas designated pursuant to 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), ~~(4), (5), and (8)~~, (B) and (J) 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 the authorized representative 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 the authorized representative, 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 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 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 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)(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 (E)(1) of this section has been given an opportunity for a public hearing. If a person charged with such a violation fails to avail oneself 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 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 forfeiture~~ fund created in section ~~1513.181~~ 1513.18 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 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

division (E)(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.

(F) 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.

(G) 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.

(H) 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 under those laws in connection with coal mining operations to the director of environmental protection for verification.

(I) 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.

(J) If this state becomes covered by a state programmatic general permit issued by the United States army corps of engineers for the discharge of dredged or fill material into the waters of the United States by operations that conduct surface and underground coal mining and reclamation operations and the restoration of abandoned mine lands, the chief may establish programs and adopt rules and procedures designed to implement the terms, limitations, and conditions of the permit. The purpose of the programs, rules, and procedures shall be to enable the state to reduce or eliminate duplicative state and federal project evaluation, simplify the regulatory approval process, provide environmental protection for aquatic resources that is equivalent to federal protection, and satisfy the requirements of the United States army corps of engineers regulatory

program under which the permit is issued and that is established under section 404 of the "Federal Water Pollution Control Act," 86 Stat. 48 (1972), 33 U.S.C. 1344, as amended by the "Clean Water Act of 1977," 91 Stat. 1600, 33 U.S.C. 1344; section 10 of the "Rivers and Harbors Act of 1899," 30 Stat. 1151, 33 U.S.C. 403; and section 103 of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1055, 33 U.S.C. 1413.

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining operation without a permit for the operation issued by the chief of the division of mineral resources management.

(2) All permits issued pursuant to this chapter shall be issued for a term not to exceed five years, except that, if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for the specified longer term, the chief may grant a permit for the longer term. A successor in interest to a permittee who applies for a new permit within thirty days after succeeding to the interest and who is able to obtain the ~~bond coverage~~ performance security of the original permittee may continue coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

(3) A permit shall terminate if the permittee has not commenced the coal mining operations covered by the permit within three years after the issuance of the permit, except that the chief may grant reasonable extensions of the time upon a showing that the extensions are necessary by reason of litigation precluding the commencement or threatening substantial economic loss to the permittee or by reason of conditions beyond the control and without the fault or negligence of the permittee, and except that with respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced coal mining operations at the time construction of the synthetic fuel or generating facility is initiated.

(4)(a) Any permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the permit. The holders of the permit may apply for renewal and the renewal shall be issued unless the chief determines by written findings, subsequent to fulfillment of the public notice requirements of this section and section 1513.071 of the Revised Code through demonstrations by opponents of renewal or otherwise, that one or more of the following circumstances exists:

(i) The terms and conditions of the existing permit are not being satisfactorily met;

(ii) The present coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(iii) The renewal requested substantially jeopardizes the operator's continuing responsibilities on existing permit areas;

(iv) The applicant has not provided evidence that the performance ~~bond~~ security in effect for the operation will continue in effect for any renewal requested in the application;

(v) Any additional, revised, or updated information required by the chief has not been provided. Prior to the approval of any renewal of a permit, the chief shall provide notice to the appropriate public authorities as prescribed by rule of the chief.

(b) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter.

(c) A permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

(5) A permit issued pursuant to this chapter does not eliminate the requirements for obtaining a permit to install or modify a disposal system or any part thereof or to discharge sewage, industrial waste, or other wastes into the waters of the state in accordance with Chapter 6111. of the Revised Code.

~~(B)(1) Each application for a coal mining and reclamation permit or renewal of such a permit shall be accompanied by a permit or renewal fee in an amount equal to the product of seventy five dollars multiplied by the number of acres, estimated in the application, that will comprise the area of land to be affected within the permit or renewal period by the coal mining operation for which the permit or renewal is requested.~~

~~(2) The permit application shall be submitted in a manner satisfactory to the chief and shall contain, among other things, all of the following:~~

~~(a) The names and addresses of all of the following:~~

~~(i) The permit applicant;~~

~~(ii) Every legal owner of record of the property, surface and mineral, to be mined;~~

~~(iii) The holders of record of any leasehold interest in the property;~~

(iv) Any purchaser of record of the property under a real estate contract;  
(v) The operator if different from the applicant;  
(vi) If any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and statutory agent for service of process.

(b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

(c) A statement of any current or previous coal mining permits in the United States held by the applicant, the permit identification, and any pending applications;

(d) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, the name and address of any person owning, of record, ten per cent or more of any class of voting stock of the applicant, a list of all names under which the applicant, partner, or principal shareholder previously operated a coal mining operation within the United States within the five-year period preceding the date of submission of the application, and a list of the person or persons primarily responsible for ensuring that the applicant complies with the requirements of this chapter and rules adopted pursuant thereto while mining and reclaiming under the permit;

(e) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, any partner if the applicant is a partnership, any officer, principal shareholder, or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant:

(i) Has ever held a federal or state coal mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining bond, performance security, or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(ii) Has been an officer, partner, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a business entity that has had a coal mining or surface mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining or surface mining bond, performance security, or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved.

(f) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, which shall include the ownership of the proposed mine, a description of the exact location and boundaries of the proposed site sufficient to make the proposed operation readily identifiable by local residents, and the location where the application is available for public inspection;

(g) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(h) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(i) An accurate map or plan, to an appropriate scale, clearly showing the land to be affected and the land upon which the applicant has the legal right to enter and commence coal mining operations, copies of those documents upon which is based the applicant's legal right to enter and commence coal mining operations, and a statement whether that right is the subject of pending litigation. This chapter does not authorize the chief to adjudicate property title disputes.

(j) The name of the watershed and location of the surface stream or tributary into which drainage from the operation will be discharged;

(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application;

(l) When requested by the chief, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(m) Accurate maps prepared by or under the direction of and certified by a qualified registered professional engineer, registered surveyor, or

licensed landscape architect to an appropriate scale clearly showing all types of information set forth on topographical maps of the United States geological survey of a scale of not more than four hundred feet to the inch, including all artificial features and significant known archeological sites. The map, among other things specified by the chief, shall show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area.

(n)(i) Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer or certified professional geologist with assistance from experts in related fields such as hydrology, hydrogeology, geology, and landscape architecture, showing pertinent elevations and locations of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined within the area to be affected; existing or previous coal mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the land to be affected or adjacent thereto; profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan; the location of subsurface water, if encountered; the location and quality of aquifers; and the estimated elevation of the water table. Registered surveyors shall be allowed to perform all plans, maps, and certifications under this chapter as they are authorized under Chapter 4733. of the Revised Code.

(ii) A statement of the quality and locations of subsurface water. The chief shall provide by rule the number of locations to be sampled, frequency of collection, and parameters to be analyzed to obtain the statement required.

(o) A statement of the results of test borings or core samplings from the permit area, including logs of the drill holes, the thickness of the coal seam found, an analysis of the chemical properties of the coal, the sulfur content of any coal seam, chemical analysis of potentially acid or toxic forming

sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal to be mined, except that this division may be waived by the chief with respect to the specific application by a written determination that its requirements are unnecessary; If the test borings or core samplings from the permit area indicate the existence of potentially acid forming or toxic forming quantities of sulfur in the coal or overburden to be disturbed by mining, the application also shall include a statement of the acid generating potential and the acid neutralizing potential of the rock strata to be disturbed as calculated in accordance with the calculation method established under section 1513.075 of the Revised Code or with another calculation method.

(p) For those lands in the permit application that a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the secretary of the United States department of agriculture in order to confirm the exact location of the prime farmlands, if any;

(q) A certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation operations for which the permit is sought or evidence that the applicant has satisfied other state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in effect during the term of the permit or any renewal, including the length of all reclamation operations. The insurance company shall give prompt notice to the permittee and the chief if the public liability insurance policy lapses for any reason including the nonpayment of insurance premiums. Upon the lapse of the policy, the chief may suspend the permit and all other outstanding permits until proper insurance coverage is obtained.

(r) The business telephone number of the applicant;

(s) If the applicant seeks an authorization under division (E)(7) of this section to conduct coal mining and reclamation operations on areas to be covered by the permit that were affected by coal mining operations before August 3, 1977, that have resulted in continuing water pollution from or on the previously mined areas, such additional information pertaining to those previously mined areas as may be required by the chief, including, without limitation, maps, plans, cross sections, data necessary to determine existing water quality from or on those areas with respect to pH, iron, and

manganese, and a pollution abatement plan that may improve water quality from or on those areas with respect to pH, iron, and manganese.

~~(3)~~(2) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available by the chief to any person with an interest that is or may be adversely affected, except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental content that is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

~~(4)~~(3)(a) If the chief finds that the probable total annual production at all locations of any operator will not exceed three hundred thousand tons, the following activities, upon the written request of the operator in connection with a permit application, shall be performed by a qualified public or private laboratory or another public or private qualified entity designated by the chief, and the cost of the activities shall be assumed by the chief, provided that sufficient moneys for such assistance are available:

(i) The determination of probable hydrologic consequences required under division (B)~~(2)~~(1)(k) of this section;

(ii) The development of cross-section maps and plans required under division (B)~~(2)~~(1)(n)(i) of this section;

(iii) The geologic drilling and statement of results of test borings and core samplings required under division (B)~~(2)~~(1)(o) of this section;

(iv) The collection of archaeological information required under division (B)~~(2)~~(1)(m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby;

(v) Pre-blast surveys required under division (E) of section 1513.161 of the Revised Code;

(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter.

(b) A coal operator that has received assistance under division (B)~~(4)~~(3)(a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit.

~~(5)~~(4) Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this

chapter.

~~(6)~~(5) Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur.

~~(7)~~(6) Each applicant for a coal mining and reclamation permit shall submit to the chief as part of the permit application a blasting plan that describes the procedures and standards by which the operator will comply with section 1513.161 of the Revised Code.

(C) Each reclamation plan submitted as part of a permit application shall include, in the detail necessary to demonstrate that reclamation required by this chapter can be accomplished, a statement of:

(1) The identification of the lands subject to coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) The condition of the land to be covered by the permit prior to any mining including all of the following:

(a) The uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining;

(b) The capability of the land prior to any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to division (B)~~(2)~~(1)(p) of this section;

(c) The productivity of the land prior to mining, including appropriate classification as prime farmlands as well as the average yield of food, fiber, forage, or wood products obtained from the land under high levels of management.

(3) The use that is proposed to be made of the land following reclamation, including information regarding the utility and capacity of the reclaimed land to support a variety of alternative uses, the relationship of the proposed use to existing land use policies and plans, and the comments of any owner of the land and state and local governments or agencies thereof that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;

(4) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities that may be needed to achieve the proposed land use;

(5) The engineering techniques proposed to be used in mining and

reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 1513.16 of the Revised Code, for those food, forage, and forest lands identified in that section; and an estimate of the cost per acre of the reclamation, including a statement as to how the permittee plans to comply with each of the requirements set out in section 1513.16 of the Revised Code;

(6) A description of the means by which the utilization and conservation of the solid fuel resource being recovered will be maximized so that re-affecting the land in the future can be minimized;

(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;

(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health and safety standards;

(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;

(11) A description of all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) The results of test borings that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the chief, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden; except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental contents that are potentially toxic in the environment, shall be kept confidential and not made a matter of public record;

(13) A detailed description of the measures to be taken during the mining and reclamation process to ensure the protection of all of the following:

(a) The quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process;

(b) The rights of present users to such water;

(c) The quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process or, where such protection of quantity cannot be assured, provision of alternative sources of water.

(14) Any other requirements the chief prescribes by rule.

(D)(1) Any information required by division (C) of this section that is not on public file pursuant to this chapter shall be held in confidence by the chief.

(2) With regard to requests for an exemption from the requirements of this chapter for coal extraction incidental to the extraction of other minerals, as described in division (H)(1)(a) of section 1513.01 of the Revised Code, confidential information includes and is limited to information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the persons intending to conduct the extraction of minerals.

(E)(1) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this chapter, and information obtained as a result of public notification and public hearing, if any, as provided by section 1513.071 of the Revised Code, the chief shall grant, require modification of, or deny the application for a permit in a reasonable time set by the chief and notify the applicant in writing. The applicant for a permit or revision of a permit has the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the chief shall notify the boards of township trustees and county commissioners, the mayor, and the legislative authority in the township, county, and municipal corporation in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land. However, failure of the chief to notify the local officials shall not affect the status of the permit.

(2) No permit application or application for revision of an existing permit shall be approved unless the application affirmatively demonstrates and the chief finds in writing on the basis of the information set forth in the application or from information otherwise available, which shall be documented in the approval and made available to the applicant, all of the following:

(a) The application is accurate and complete and all the requirements of this chapter have been complied with.

(b) The applicant has demonstrated that the reclamation required by this chapter can be accomplished under the reclamation plan contained in the application.

(c)(i) Assessment of the probable cumulative impact of all anticipated mining in the general and adjacent area on the hydrologic balance specified in division (B)~~(2)~~(1)(k) of this section has been made by the chief, and the proposed operation has been designed to prevent material damage to hydrologic balance outside the permit area.

(ii) There shall be an ongoing process conducted by the chief in cooperation with other state and federal agencies to review all assessments of probable cumulative impact of coal mining in light of post-mining data and any other hydrologic information as it becomes available to determine if the assessments were realistic. The chief shall take appropriate action as indicated in the review process.

(d) The area proposed to be mined is not included within an area designated unsuitable for coal mining pursuant to section 1513.073 of the Revised Code or is not within an area under study for such designation in an administrative proceeding commenced pursuant to division (A)(3)(c) or (B) of section 1513.073 of the Revised Code unless in an area as to which an administrative proceeding has commenced pursuant to division (A)(3)(c) or (B) of section 1513.073 of the Revised Code, the operator making the permit application demonstrates that, prior to January 1, 1977, the operator made substantial legal and financial commitments in relation to the operation for which a permit is sought.

(e) In cases where the private mineral estate has been severed from the private surface estate, the applicant has submitted to the chief one of the following:

(i) The written consent of the surface owner to the extraction of coal by strip mining methods;

(ii) A conveyance that expressly grants or reserves the right to extract the coal by strip mining methods;

(iii) If the conveyance does not expressly grant the right to extract coal by strip mining methods, the surface-subsurface legal relationship shall be determined under the law of this state. This chapter does not authorize the chief to adjudicate property rights disputes.

(3)(a) The applicant shall file with the permit application a schedule listing all notices of violations of any law, rule, or regulation of the United States or of any department or agency thereof or of any state pertaining to air or water environmental protection incurred by the applicant in connection with any coal mining operation during the three-year period prior to the date of application. The schedule also shall indicate the final resolution of such a notice of violation. Upon receipt of an application, the chief shall provide a schedule listing all notices of violations of this chapter

pertaining to air or water environmental protection incurred by the applicant during the three-year period prior to receipt of the application and the final resolution of all such notices of violation. The chief shall provide this schedule to the applicant for filing by the applicant with the application filed for public review, as required by division (B)~~(6)~~(5) of this section. When the schedule or other information available to the chief indicates that any coal mining operation owned or controlled by the applicant is currently in violation of such laws, the permit shall not be issued until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency that has jurisdiction over the violation and that any civil penalties owed to the state for a violation and not the subject of an appeal have been paid. No permit shall be issued to an applicant after a finding by the chief that the applicant or the operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of a nature and duration to result in irreparable damage to the environment as to indicate an intent not to comply with or a disregard of this chapter.

(b) For the purposes of division (E)(3)(a) of this section, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person submitting an application for a coal mining permit under this section shall not prevent issuance of that permit. As used in this division, "unanticipated event or condition" means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(4)(a) In addition to finding the application in compliance with division (E)(2) of this section, if the area proposed to be mined contains prime farmland as determined pursuant to division (B)~~(2)~~(1)(p) of this section, the chief, after consultation with the secretary of the United States department of agriculture and pursuant to regulations issued by the secretary of the interior with the concurrence of the secretary of agriculture, may grant a permit to mine on prime farmland if the chief finds in writing that the operator has the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 1513.16 of the Revised Code.

(b) Division (E)(4)(a) of this section does not apply to a permit issued prior to August 3, 1977, or revisions or renewals thereof.

(5) The chief shall issue an order denying a permit after finding that the applicant has misrepresented or omitted any material fact in the application for the permit.

(6) The chief may issue an order denying a permit after finding that the applicant, any partner, if the applicant is a partnership, any officer, principal shareholder, or director, if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has been a sole proprietor or partner, officer, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a business entity that ever has had a coal mining license or permit issued by this or any other state or the United States suspended or revoked, ever has forfeited a coal or surface mining bond, performance security, or similar security deposited in lieu of bond in this or any other state or with the United States, or ever has substantially or materially failed to comply with this chapter.

(7) When issuing a permit under this section, the chief may authorize an applicant to conduct coal mining and reclamation operations on areas to be covered by the permit that were affected by coal mining operations before August 3, 1977, that have resulted in continuing water pollution from or on the previously mined areas for the purpose of potentially reducing the pollution loadings of pH, iron, and manganese from discharges from or on the previously mined areas. Following the chief's authorization to conduct such operations on those areas, the areas shall be designated as pollution abatement areas for the purposes of this chapter.

The chief shall not grant an authorization under division (E)(7) of this section to conduct coal mining and reclamation operations on any such previously mined areas unless the applicant demonstrates to the chief's satisfaction that all of the following conditions are met:

(a) The applicant's pollution abatement plan for mining and reclaiming the previously mined areas represents the best available technology economically achievable;

(b) Implementation of the plan will potentially reduce pollutant loadings of pH, iron, and manganese resulting from discharges of surface waters or ground water from or on the previously mined areas within the permit area;

(c) Implementation of the plan will not cause any additional degradation of surface water quality off the permit area with respect to pH, iron, and manganese;

(d) Implementation of the plan will not cause any additional degradation

of ground water;

(e) The plan meets the requirements governing mining and reclamation of such previously mined pollution abatement areas established by the chief in rules adopted under section 1513.02 of the Revised Code;

(f) Neither the applicant; any partner, if the applicant is a partnership; any officer, principal shareholder, or director, if the applicant is a corporation; any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant; nor any contractor or subcontractor of the applicant, has any of the following:

(i) Responsibility or liability under this chapter or rules adopted under it as an operator for treating the discharges of water pollutants from or on the previously mined areas for which the authorization is sought;

(ii) Any responsibility or liability under this chapter or rules adopted under it for reclaiming the previously mined areas for which the authorization is sought;

(iii) During the eighteen months prior to submitting the permit application requesting an authorization under division (E)(7) of this section, had a coal mining and reclamation permit suspended or revoked under division (D)(3) of section 1513.02 of the Revised Code for violating this chapter or Chapter 6111. of the Revised Code or rules adopted under them with respect to water quality, effluent limitations, or surface or ground water monitoring;

(iv) Ever forfeited a coal or surface mining bond, performance security, or similar security deposited in lieu of a bond in this or any other state or with the United States.

(8) In the case of the issuance of a permit that involves a conflict of results between various methods of calculating potential acidity and neutralization potential for purposes of assessing the potential for acid mine drainage to occur at a mine site, the permit shall include provisions for monitoring and record keeping to identify the creation of unanticipated acid water at the mine site. If the monitoring detects the creation of acid water at the site, the permit shall impose on the permittee additional requirements regarding mining practices and site reclamation to prevent the discharge of acid mine drainage from the mine site. As used in division (E)(8) of this section, "potential acidity" and "neutralization potential" have the same meanings as in section 1513.075 of the Revised Code.

(F)(1) During the term of the permit, the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the chief.

(2) An application for a revision of a permit shall not be approved unless the chief finds that reclamation required by this chapter can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within ninety days after receipt of a complete revision application. The chief shall establish, by rule, criteria for determining the extent to which all permit application information requirements and procedures, including notice and hearings, shall apply to the revision request, except that any revisions that propose significant alterations in the reclamation plan, at a minimum, shall be subject to notice and hearing requirements.

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

(G) No transfer, assignment, or sale of the rights granted under a permit issued pursuant to this chapter shall be made without the written approval of the chief.

(H) The chief, within a time limit prescribed in the chief's rules, shall review outstanding permits and may require reasonable revision or modification of a permit. A revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by rule of the chief.

(I)(1) If an informal conference has been held pursuant to section 1513.071 of the Revised Code, the chief shall issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections pursuant to division (B) of section 1513.071 of the Revised Code, with the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within sixty days of the conference.

(2) If there has been no informal conference held pursuant to section 1513.071 of the Revised Code, the chief shall notify the applicant for a permit within a reasonable time as provided by rule of the chief, taking into account the time needed for proper investigation of the site, the complexity of the permit application, whether or not a written objection to the application has been filed, and whether the application has been approved or disapproved in whole or in part.

(3) If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor shall be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the chief on the permit application, the applicant or any person with an interest that is or may be adversely affected may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised

Code.

(4) Any applicant or any person with an interest that is or may be adversely affected who has participated in the administrative proceedings as an objector and is aggrieved by the decision of the reclamation commission, or if the commission fails to act within the time limits specified in this chapter, may appeal in accordance with section 1513.14 of the Revised Code.

Sec. 1513.071. (A) Simultaneously with the filing of an application for a permit or significant revision of an existing permit under section 1513.07 of the Revised Code, the applicant shall submit to the chief of the division of mineral resources management a copy of ~~his~~ the applicant's advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission, the advertisement shall be placed by the applicant in a newspaper of general circulation in the locality of the proposed coal mine at least once a week for four consecutive weeks. The chief shall notify, in each county or part of a county in which a proposed area to be permitted is located, the board of county commissioners, the board of township trustees, the legislative authorities of municipal corporations, private water companies, regional councils of governments, and the boards of directors of conservancy districts informing them of the operator's intention to conduct a coal mining operation on a particularly described tract of land and indicating the permit application number and where a copy of the proposed mining and reclamation plan may be inspected. The chief shall also notify the planning commissions with jurisdiction over all or part of the area to be permitted. These agencies, authorities, or companies may submit written comments on the application with respect to the effects of the proposed operation on the environment that are within their area of responsibility in quadruplicate to the chief within thirty days after notification by the chief of receipt of the application. The chief shall immediately transmit these comments to the applicant and make them available to the public at the same locations at which the mining application is available for inspection.

(B) A person having an interest that is or may be adversely affected or the officer or head of any federal, state, or local governmental agency or authority may file written objections to the proposed initial or revised application for a coal mining and reclamation permit with the chief within thirty days after the last publication of the notice required by division (A) of this section. The objections shall immediately be transmitted to the applicant by the chief and shall be made available to the public. If written objections are filed and an informal conference requested, the chief or ~~his~~ the chief's representative shall then hold an informal conference on the application for

a permit within a reasonable time in the county where the largest area of the area to be permitted is located. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. The chief may arrange with the applicant, upon request by any objecting party, access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the applicant's performance ~~bond~~ security. If all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

Sec. 1513.075. (A) As used in this section:

(1) "Potential acidity" means a laboratory measurement of the amount of acidity that could be produced by material in a rock strata proposed to be disturbed by mining and that is expressed by a numeral indicating the number of tons of that acidity that would be present in one thousand tons of disturbed overburden.

(2) "Neutralization potential" means a laboratory measurement of the alkalinity of a rock strata expressed as the amount of acidity that would be neutralized by material proposed to be disturbed by mining and that is expressed by a numeral indicating the number of tons of that alkalinity that would be present in one thousand tons of disturbed overburden.

(3) "Test borings or core samplings" refer to test borings or core samplings performed on rock strata in an area proposed to be covered by a permit for a coal mining operation, the results of which must be stated in the permit application in accordance with division (B)(1)(o) of section 1513.07 of the Revised Code.

(B) For purposes of the determination of the chief of the division of mineral resources management regarding whether to approve an application for a permit for a coal mining operation based on criteria established in divisions (E)(2)(a) and (c) of section 1513.07 of the Revised Code and related performance standards established in division (A)(10) of section 1513.16 of the Revised Code, the potential acidity and the neutralization potential of the rock strata that would be disturbed under the permit may be calculated in accordance with this section.

(C) The measurement of potential acidity may be based on laboratory analyses of the sulfur content of the coal and overburden to be disturbed by mining. If the results of test borings or core samplings include laboratory

analyses of the pyritic form of sulfur, the applicant may base the calculation of the potential acidity for the area on the pyritic sulfur content of the coal and overburden to be disturbed by mining rather than on the total sulfur content.

(D) The tons of rock in the area represented by each core hole resulting from test boring or core sampling may be estimated and used to calculate the tons of potential acidity and tons of neutralization potential for each rock stratum. The sum of those values across the proposed permit area may be used to calculate the site's overall neutralization potential and potential acidity.

(E) The proposed permit area may not be considered to have the potential to create acid or other toxic mine drainage if either of the following applies:

(1) The numeral that indicates the site's overall neutralization potential divided by the numeral that indicates the site's overall potential acidity results in a quotient that is equal to or greater than two.

(2) The numeral that indicates the neutralization potential subtracted from the numeral that indicates the potential acidity results in a remainder that is equal to or less than either of the following:

(a) Negative five in the case that the total sulfur content of rock strata is used to calculate potential acidity;

(b) Negative ten in the case that the pyritic sulfur content of rock strata is used to calculate potential acidity.

Sec. 1513.08. (A) After a coal mining and reclamation permit application has been approved, but before the permit is issued, the applicant shall file with the chief of the division of mineral resources management, on a form prescribed and furnished by the chief, ~~a bond for performance payable, as appropriate, to the state and conditioned upon faithful performance of all the requirements of this chapter and the permit the performance security required under this section. The bond~~

(B) Using the information contained in the permit application; the requirements contained in the approved permit and reclamation plan; and, after considering the topography, geology, hydrology, and revegetation potential of the area of the approved permit, the probable difficulty of reclamation; the chief shall be in the amount of twenty-five hundred dollars times the number of acres of land upon which the operator states in the application for a permit the operator will initiate and conduct coal mining and determine the estimated cost of reclamation operations within under the initial term of the permit if the reclamation has to be performed by the division of mineral resources management in the event of forfeiture of the

performance security by the applicant. The minimum amount of a bond shall be ten thousand dollars. The bond The chief shall send written notice of the amount of the estimated cost of reclamation by certified mail to the applicant. The applicant shall send written notice to the chief indicating the method by which the applicant will provide the performance security pursuant to division (C) of this section.

(C) The applicant shall provide the performance security in an amount using one of the following:

(1) If the applicant elects to provide performance security without reliance on the reclamation forfeiture fund created in section 1513.18 of the Revised Code, the amount of the estimated cost of reclamation as determined by the chief under division (B) of this section for the increments of land on which the operator will conduct a coal mining and reclamation operation under the initial term of the permit as indicated in the application:

(2) If the applicant elects to provide performance security together with reliance on the reclamation forfeiture fund through payment of the additional tax on the severance of coal that is levied under division (A)(8) of section 5749.02 of the Revised Code, an amount of twenty-five hundred dollars per acre of land on which the operator will conduct coal mining and reclamation under the initial term of the permit as indicated in the application. However, in order to be eligible to provide performance security in accordance with division (C)(2) of this section, an applicant shall have held a permit issued under this chapter for any coal mining and reclamation operation for a period of not less than five years. In the event of forfeiture of performance security that was provided in accordance with division (C)(2) of this section, the difference between the amount of that performance security and the estimated cost of reclamation as determined by the chief under division (B) of this section shall be obtained from money in the reclamation forfeiture fund as needed to complete the reclamation.

The performance security provided under division (C) of this section for the entire area to be mined under one permit issued under this chapter shall not be less than ten thousand dollars.

The performance security shall cover areas of land affected by mining within or immediately adjacent to the permitted area, so long as the total number of acres does not exceed the number of acres ~~bonded~~ for which the performance security is provided. However, the authority for ~~bond~~ the performance security to cover areas of land immediately adjacent to the permitted area does not authorize a permittee to mine areas outside an approved permit area. As succeeding increments of coal mining and reclamation operations are to be initiated and conducted within the permit

area, the permittee shall file with the chief ~~an additional bond or bonds~~ performance security to cover the increments in accordance with this section. ~~In the event of forfeiture of a bond, if the bond is insufficient to complete the reclamation, the chief shall complete the reclamation in accordance with section 1513.18 of the Revised Code using funds from the reclamation forfeiture fund created in that section~~ If a permittee intends to mine areas outside the approved permit area, the permittee shall provide additional performance security in accordance with this section to cover the areas to be mined.

~~(B) Liability~~ An applicant shall provide performance security in accordance with division (C)(1) of this section in the full amount of the estimated cost of reclamation as determined by the chief for a permitted coal preparation plant or coal refuse disposal area that is not located within a permitted area of a mine. A permittee shall provide the performance security not later than one year after the effective date of this amendment for a permitted coal preparation plant or coal refuse disposal area that is in existence on the effective date of this amendment and that is not located within a permitted area of a mine.

~~(D)~~ A permittee's liability under the performance security shall be limited to the obligations established under the permit, which include completion of the reclamation plan in order to make the land capable of supporting the postmining land use that was approved in the permit. The period of liability under the ~~bond~~ performance security shall be for the duration of the coal mining and reclamation operation and for a period coincident with the operator's responsibility for revegetation requirements under section 1513.16 of the Revised Code. ~~The bond~~

~~(E)~~ The amount of the estimated cost of reclamation determined under division (B) of this section and the amount of a permittee's performance security provided in accordance with division (C)(1) of this section may be adjusted by the chief as the land that is affected by mining increases or decreases or if the cost of reclamation increases or decreases. If the performance security was provided in accordance with division (C)(2) of this section and the chief has issued a cessation order under division (D)(2) of section 1513.02 of the Revised Code for failure to abate a violation of the contemporaneous reclamation requirement under division (A)(15) of section 1513.16 of the Revised Code, the chief may require the permittee to increase the amount of performance security from twenty-five hundred dollars per acre of land to five thousand dollars per acre of land.

The chief shall notify the permittee, each surety, and any person who has a property interest in the performance security and who has requested to

be notified of any proposed adjustment to the performance security. The permittee may request an informal conference with the chief concerning the proposed adjustment, and the chief shall provide such an informal conference.

If the chief increases the amount of performance security under this division, the permittee shall provide additional performance security in an amount determined by the chief. If the chief decreases the amount of performance security under this division, the chief shall determine the amount of the reduction of the performance security and send written notice of the amount of reduction to the permittee. The permittee may reduce the amount of the performance security in the amount determined by the chief.

(F) A permittee may request a reduction in the amount of the performance security by submitting to the chief documentation proving that the amount of the performance security provided by the permittee exceeds the estimated cost of reclamation if the reclamation would have to be performed by the division in the event of forfeiture of the performance security. The chief shall examine the documentation and determine whether the permittee's performance security exceeds the estimated cost of reclamation. If the chief determines that the performance security exceeds that estimated cost, the chief shall determine the amount of the reduction of the performance security and send written notice of the amount to the permittee. The permittee may reduce the amount of the performance security in the amount determined by the chief. Adjustments in the amount of performance security under this division shall not be considered release of performance security and are not subject to section 1513.16 of the Revised Code.

(G) If the performance security is a bond, it shall be executed by the operator and a corporate surety licensed to do business in this state, ~~except that the operator may elect to deposit. If the performance security is a cash; negotiable bonds of the United States or this state, deposit or negotiable certificates of deposit of any a bank or savings and loan association organized or transacting business in the United States, the bank or savings and loan association shall be licensed and operating in this state.~~ The cash deposit or market value of the securities shall be equal to or greater than the amount of the ~~bond~~ performance security required ~~for the bonded area~~ under this section. The chief shall review any documents pertaining to the performance security and approve or disapprove the documents. The chief shall notify the applicant of the chief's determination.

(C) The (H) If the performance security is a bond, the chief may accept the bond of the applicant itself without separate surety when the applicant

demonstrates to the satisfaction of the chief the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond the amount.

~~(D) Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. The securities shall be security for the repayment of the negotiable certificate of deposit.~~

~~(E) The amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the chief from time to time as affected land acreages are increased or decreased~~ (I) Performance security provided under this section may be held in trust, provided that the state is the conditional beneficiary of the trust and the custodian of the performance security held in trust is a bank, trust company, or other financial institution that is licensed and operating in this state. The chief shall review the trust document and approve or disapprove the document. The chief shall notify the applicant of the chief's determination.

(J) If a surety, bank, savings and loan association, trust company, or other financial institution that holds the performance security required under this section becomes insolvent, the permittee shall notify the chief of the insolvency, and the chief shall order the permittee to submit a plan for replacement performance security within thirty days after receipt of notice from the chief. If the permittee provided performance security in accordance with division (C)(1) of this section, the permittee shall provide the replacement performance security within ninety days after receipt of notice from the chief. If the permittee provided performance security in accordance with division (C)(2) of this section, the permittee shall provide the replacement performance security within one year after receipt of notice from the chief, and, for a period of one year after the permittee's receipt of notice from the chief or until the permittee provides the replacement performance security, whichever occurs first, money in the reclamation forfeiture fund shall be the permittee's replacement performance security in an amount not to exceed the estimated cost of reclamation as determined by the chief.

(K) A permittee's responsibility for repairing material damage and replacement of water supply resulting from subsidence may be satisfied by liability insurance required under this chapter in lieu of the permittee's performance security if the liability insurance policy contains terms and conditions that specifically provide coverage for repairing material damage and replacement of water supply resulting from subsidence.

(L) If the performance security provided in accordance with this section exceeds the estimated cost of reclamation, the chief may authorize the amount of the performance security that exceeds the estimated cost of reclamation together with any interest or other earnings on the performance security to be paid to the permittee.

Sec. 1513.081. (A) If an operator becomes insolvent, the division of mineral resources management shall have a priority lien in front of all other interested creditors against the assets of that operator for the amount of any reclamation that is required as a result of the operator's mining activities. The chief of the division of mineral resources management shall file a statement in the office of the county recorder of each county in which the mined land lies of the estimated cost to reclaim the land. The estimated cost to reclaim the land shall include the direct and indirect costs of the development, design, construction, management, and administration of the reclamation. The statement shall constitute a lien on the assets of the operator as of the date of the filing. The lien shall continue in force so long as any portion of the lien remains unpaid or until the chief issues a certificate of release of the lien. If the chief issues a certificate of release of the lien, the chief shall file the certificate of release in the office of each applicable county recorder.

(B) The chief promptly shall issue a certificate of release of a lien under any of the following circumstances:

(1) Upon the repayment in full of the money that is necessary to complete the reclamation;

(2) Upon the transfer of an existing permit that includes the areas of the operation for which reclamation was not completed to a different operator;

(3) Any other circumstance that the chief determines to be in the best interests of the state.

(C) The chief may modify the amount of a lien under this section. If the chief modifies a lien, the chief shall file a statement in the office of the county recorder of each applicable county of the new amount of the lien.

(D) The chief may authorize an agent to hold a certificate of release in escrow for a period not to exceed one hundred eighty days for the purpose of facilitating the transfer of unreclaimed mine land.

(E) All money from the collection of liens under this section shall be deposited in the state treasury to the credit of the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

Sec. 1513.13. (A)(1) Any person having an interest that is or may be adversely affected by a notice of violation, order, or decision of the chief of the division of mineral resources management, other than a show cause

order or an order that adopts a rule, or by any modification, vacation, or termination of such a notice, order, or decision, may appeal by filing a notice of appeal with the reclamation commission for review of the notice, order, or decision within thirty days after the notice, order, or decision is served upon the person or within thirty days after its modification, vacation, or termination and by filing a copy of the notice of appeal with the chief within three days after filing the notice of appeal with the commission. The notice of appeal shall contain a copy of the notice of violation, order, or decision complained of and the grounds upon which the appeal is based. The commission has exclusive original jurisdiction to hear and decide such appeals. The filing of a notice of appeal under division (A)(1) of this section does not operate as a stay of any order, notice of violation, or decision of the chief.

(2) The permittee, the chief, and other interested persons shall be given written notice of the time and place of the hearing at least five days prior thereto. The hearing shall be of record.

(3) Any person authorized under this section to appeal to the commission may request an informal review by the chief or the chief's designee by filing a written request with the chief within thirty days after a notice, order, decision, modification, vacation, or termination is served upon the person. Filing of the written request shall toll the time for appeal before the commission, but shall not operate as a stay of any order, notice of violation, or decision of the chief. The chief's determination of an informal review is appealable to the commission under this section.

(B) The commission shall affirm the notice of violation, order, or decision of the chief unless the commission determines that it is arbitrary, capricious, or otherwise inconsistent with law; in that case the commission may modify the notice of violation, order, or decision or vacate it and remand it to the chief for further proceedings that the commission may direct.

The commission shall conduct hearings and render decisions in a timely fashion, except that all of the following apply:

(1) When the appeal concerns an order for the cessation of coal mining and reclamation operations issued pursuant to division (D)(1) or (2) of section 1513.02 of the Revised Code, the commission shall issue its written decision within thirty days after the receipt of the appeal unless temporary relief has been granted by the chairperson pursuant to division (C) of this section.

(2) When the appeal concerns an application for a permit under division (I) of section 1513.07 of the Revised Code, the commission shall hold a

hearing within thirty days after receipt of the notice of appeal and issue its decision within thirty days after the hearing.

(3) When the appeal concerns a decision of the chief regarding release of ~~bond~~ a performance security under division (F) of section 1513.16 of the Revised Code, the commission shall hold a hearing within thirty days after receipt of the notice of appeal and issue its decision within sixty days after the hearing.

(4) When the appeal concerns a decision of the chief regarding the location of a well in a coal bearing township under section 1509.08 of the Revised Code, the commission shall hold a hearing and issue its decision within thirty days after receipt of the notice of appeal.

(C) The chairperson of the commission, under conditions the chairperson prescribes, may grant temporary relief the chairperson considers appropriate pending final determination of an appeal if all of the following conditions are met:

(1) All parties to the appeal have been notified and given an opportunity for a hearing to be held in the locality of the subject site on the request for temporary relief and the opportunity to be heard on the request.

(2) The person requesting relief shows that there is a substantial likelihood that the person will prevail on the merits.

(3) The relief will not adversely affect public health or safety or cause significant imminent environmental harm to land, air, or water resources.

The chairperson shall issue a decision expeditiously, except that when the applicant requests relief from an order for the cessation of coal mining and reclamation operations issued pursuant to division (D)(1) or (2) of section 1513.02 of the Revised Code, the decision shall be issued within five days after its receipt.

Any party to an appeal filed with the commission who is aggrieved or adversely affected by a decision of the chairperson to grant or deny temporary relief under this section may appeal that decision to the commission. The commission may confine its review to the record developed at the hearing before the chairperson.

The appeal shall be filed with the commission within thirty days after the chairperson issues the decision on the request for temporary relief. The commission shall issue a decision as expeditiously as possible, except that when the appellant requests relief from an order for the cessation of coal mining and reclamation operations issued pursuant to division (D)(1) or (2) of section 1513.02 of the Revised Code, the decision of the commission shall be issued within five days after receipt of the notice of appeal.

The commission shall affirm the decision of the chairperson granting or

denying temporary relief unless it determines that the decision is arbitrary, capricious, or otherwise inconsistent with law.

(D) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to division (D)(3) of section 1513.02 of the Revised Code, the chief or a representative of the chief shall hold a public adjudicatory hearing after giving written notice of the time, place, and date thereof. The hearing shall be of record.

Within sixty days following the public hearing, the chief shall issue and furnish to the permittee and all other parties to the hearing a written decision, and the reasons therefor, concerning suspension or revocation of the permit. If the chief revokes the permit, the permittee immediately shall cease coal mining operations on the permit area and shall complete reclamation within a period specified by the chief, or the chief shall declare as forfeited the performance ~~bonds~~ security for the operation.

(E)(1) Whenever an enforcement order or permit decision is appealed under this section or any action is filed under division (B) of section 1513.15 or 1513.39 of the Revised Code, at the request of a prevailing party, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined to have been necessary and reasonably incurred by the prevailing party for or in connection with participation in the enforcement proceedings before the commission, the court under section 1513.15 of the Revised Code, or the chief under section 1513.39 of the Revised Code, may be awarded, as considered proper, in accordance with divisions (E)(1)(a) to (c) of this section. In no event shall attorney's fees awarded under this section exceed, for the kind and quality of services, the prevailing market rates at the time the services were furnished under division (A) of this section. A party may be entitled to costs and expenses related solely to the preparation, defense, and appeal of a petition for costs and expenses, provided that the costs and expenses are limited and proportionate to costs and expenses otherwise allowed under division (E) of this section.

(a) A party, other than the permittee or the division of mineral resources management, shall file a petition, if any, for an award of costs and expenses, including attorney's fees, with the chief, who shall review the petition. If the chief finds that the party, other than the permittee or the division, prevailed in whole or in part, made a substantial contribution to a full and fair determination of the issues, and made a contribution separate and distinct from the contribution made by any other party, the chief may award to that party the party's costs and expenses, including attorney's fees that were necessary and reasonably incurred by the petitioning party for, or in

connection with, participation in the proceeding before the commission.

(b) If a permittee who made a request under division (E)(1) of this section demonstrates that a party other than a permittee who initiated an appeal under this section or participated in such an appeal initiated or participated in the appeal in bad faith and for the purpose of harassing or embarrassing the permittee, the permittee may file a petition with the chief. The chief may award to the permittee the costs and expenses reasonably incurred by the permittee in connection with participation in the appeal and assess those costs and expenses against the party who initiated the appeal.

(c) The division may file, with the commission, a request for an award to the division of the costs and expenses reasonably incurred by the division in connection with an appeal initiated under this section. The commission may assess those costs and expenses against the party who initiated the appeal if the division demonstrates that the party initiated or participated in the appeal in bad faith and for the purpose of harassing or embarrassing the division.

(2) Whenever an order issued under this section or as a result of any administrative proceeding under this chapter is the subject of judicial review, at the request of any party, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined by the court to have been necessary and reasonably incurred by the party for or in connection with participation in the proceedings, may be awarded to either party, in accordance with division (E)(1) of this section, as the court, on the basis of judicial review, considers proper.

Sec. 1513.16. (A) Any permit issued under this chapter to conduct coal mining operations shall require that the operations meet all applicable performance standards of this chapter and such other requirements as the chief of the division of mineral resources management shall adopt by rule. General performance standards shall apply to all coal mining and reclamation operations and shall require the operator at a minimum to do all of the following:

(1) Conduct coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that re-affecting the land in the future through coal mining can be minimized;

(2) Restore the land affected to a condition capable of supporting the uses that it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as the uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of diminution or pollution of the waters of the state, and the permit applicants' declared proposed land uses following

reclamation are not considered to be impractical or unreasonable, to be inconsistent with applicable land use policies and plans, to involve unreasonable delay in implementation, or to violate federal, state, or local law;

(3) Except as provided in division (B) of this section, with respect to all coal mining operations, backfill, compact where advisable to ensure stability or to prevent leaching of toxic materials, and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter, provided that if the operator demonstrates that due to volumetric expansion the amount of overburden and the spoil and waste materials removed in the course of the mining operation are more than sufficient to restore the approximate original contour, the operator shall backfill, grade, and compact the excess overburden and other spoil and waste materials to attain the lowest grade, but not more than the angle of repose, and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region in accordance with the approved mining plan. The overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and shall be revegetated in accordance with this chapter.

(4) Stabilize and protect all surface areas, including spoil piles affected by the coal mining and reclamation operation, to control erosion and attendant air and water pollution effectively;

(5) Remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from the spoil, and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick-growing plants or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If the topsoil is of insufficient quantity or of poor quality for sustaining vegetation or if other strata can be shown to be more suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata as are best able to support vegetation.

(6) Restore the topsoil or the best available subsoil that is best able to support vegetation;

(7) For all prime farmlands as identified in division (B)~~(2)~~(1)(p) of section 1513.07 of the Revised Code to be mined and reclaimed, perform

soil removal, storage, replacement, and reconstruction in accordance with specifications established by the secretary of the United States department of agriculture under the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be required to do all of the following:

(a) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity, and, if not utilized immediately, stockpile this material separately from the spoil and provide needed protection from wind and water erosion or contamination by acid or other toxic material;

(b) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil, and, if not utilized immediately, stockpile this material separately from the spoil and provide needed protection from wind and water erosion or contamination by acid or other toxic material;

(c) Replace and regrade the root zone material described in division (A)(7)(b) of this section with proper compaction and uniform depth over the regraded spoil material;

(d) Redistribute and grade in a uniform manner the surface soil horizon described in division (A)(7)(a) of this section.

(8) Create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated by the operator that all of the following conditions will be met:

(a) The size of the impoundment is adequate for its intended purposes.

(b) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the "Watershed Protection and Flood Prevention Act," 68 Stat. 666 (1954), 16 U.S.C. 1001, as amended.

(c) The quality of impounded water will be suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream.

(d) The level of water will be reasonably stable.

(e) Final grading will provide adequate safety and access for proposed water users.

(f) The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(9) Conduct any augering operation associated with strip mining in a manner to maximize recoverability of mineral reserves remaining after the operation and reclamation are complete and seal all auger holes with an impervious and noncombustible material in order to prevent drainage, except where the chief determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety. 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.

(10) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation by doing all of the following:

(a) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(i) Preventing or removing water from contact with toxic producing deposits;

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses in accordance with rules adopted by the chief in accordance with section 1513.02 of the Revised Code;

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells, and keeping acid or other toxic drainage from entering ground and surface waters.

(b)(i) Conducting coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal laws;

(ii) Constructing any siltation structures pursuant to division (A)(10)(b)(i) of this section prior to commencement of coal mining operations. The structures shall be certified by persons approved by the chief to be constructed as designed and as approved in the reclamation plan.

(c) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the chief;

(d) Restoring recharge capacity of the mined area to approximate premining conditions;

(e) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(f) Such other actions as the chief may prescribe.

(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working areas or excavations, stabilize all waste piles in designated areas through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and ensure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to this chapter;

(12) Refrain from coal mining within five hundred feet of active and abandoned underground mines in order to prevent breakthroughs and to protect the health or safety of miners. The chief shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer than five hundred feet to an active underground mine if both of the following conditions are met:

(a) The nature, timing, and sequencing of the approximate coincidence of specific strip mine activities with specific underground mine activities are approved by the chief;

(b) The operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;

(14) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

(15) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the coal mining operations, except that where the applicant proposes to combine strip mining operations with underground mining operations to ensure maximum practical recovery of the mineral resources, the chief may grant a variance

for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation if:

(a) The chief finds in writing that:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations.

(ii) The proposed underground mining operations are necessary or desirable to ensure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface.

(iii) The applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in this state and that permits necessary for the underground mining operations have been issued by the appropriate authority.

(iv) The areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations.

(v) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this chapter.

(vi) Provisions for the off-site storage of spoil will comply with division (A)(21) of this section.

(b) The chief has adopted specific rules to govern the granting of such variances in accordance with this division and has imposed such additional requirements as the chief considers necessary.

(c) Variances granted under this division shall be reviewed by the chief not more than three years from the date of issuance of the permit.

(d) Liability under the ~~bond~~ performance security filed by the applicant with the chief pursuant to section 1513.08 of the Revised Code shall be for the duration of the underground mining operations and until the requirements of this section and section 1513.08 of the Revised Code have been fully complied with.

(16) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, and damage to fish or wildlife or their habitat, or to public or private property;

(17) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to the channel as to seriously alter the normal flow of water;

(18) Establish, on the regraded areas and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal

variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(19)(a) Assume the responsibility for successful revegetation, as required by division (A)(18) of this section, for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division, except that when the chief approves a long-term intensive agricultural postmining land use, the applicable five-year period of responsibility for revegetation shall commence at the date of initial planting for that long-term intensive agricultural postmining land use, and except that when the chief issues a written finding approving a long-term intensive agricultural postmining land use as part of the mining and reclamation plan, the chief may grant an exception to division (A)(18) of this section;

(b) On lands eligible for remining, assume the responsibility for successful revegetation, as required by division (A)(18) of this section, for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division.

(20) Protect off-site areas from slides or damage occurring during the coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(21) Place all excess spoil material resulting from coal mining and reclamation operations in such a manner that all of the following apply:

(a) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way as to ensure mass stability and to prevent mass movement.

(b) The areas of disposal are within the ~~bonded~~ permit areas for which performance security has been provided. All organic matter shall be removed immediately prior to spoil placement except in the zoned concept method.

(c) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and mass movement.

(d) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented unless the zoned concept method is used.

(e) If placed on a slope, the spoil is placed upon the most moderate

slope among those slopes upon which, in the judgment of the chief, the spoil could be placed in compliance with all the requirements of this chapter and is placed, where possible, upon, or above, a natural terrace, bench, or berm if that placement provides additional stability and prevents mass movement.

(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.

(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.

(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards.

(i) All other provisions of this chapter are met.

(22) Meet such other criteria as are necessary to achieve reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site;

(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion.

(B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section.

(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided in division (B)(4)(a) of this section, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accordance with this division.

(3) In cases where an industrial, commercial, agricultural, residential, or public facility use, including recreational facilities, is proposed for the postmining use of the affected land, the chief may grant a permit for a mining operation of the nature described in division (B)(2) of this section when all of the following apply:

(a) After consultation with the appropriate land use planning agencies, if

any, the proposed postmining land use is considered to constitute an equal or better economic or public use of the affected land, as compared with premining use.

(b) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the use will be all of the following:

- (i) Compatible with adjacent land uses;
- (ii) Obtainable according to data regarding expected need and market;
- (iii) Assured of investment in necessary public facilities;
- (iv) Supported by commitments from public agencies where appropriate;
- (v) Practicable with respect to private financial capability for completion of the proposed use;
- (vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use;
- (vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs.

(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use.

(e) All other requirements of this chapter will be met.

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:

(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion.

(b) The reclaimed area is stable.

(c) The resulting plateau or rolling contour drains inward from the outslopes except at specified points.

(d) No damage will be done to natural watercourses.

(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop bench shall be placed in accordance with division (A)(21) of this section.

(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met.

(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of this section and may impose such additional requirements as the chief considers necessary.

(6) All permits granted under divisions (B)(1) to (4) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(C) All of the following performance standards apply to steep-slope coal mining and are in addition to those general performance standards required by this section, except that this division does not apply to those situations in which an operator is mining on flat or gently rolling terrain on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where an operator is in compliance with division (B) of this section:

(1) The operator shall ensure that when performing coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter is placed on the downslope below the bench or mining cut. Spoil material in excess of that required for the reconstruction of the approximate original contour under division (A)(3) or (C)(2) of this section shall be permanently stored pursuant to division (A)(21) of this section.

(2) The operator shall complete backfilling with spoil material to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator shall not disturb land above the top of the highwall unless the chief finds that the disturbance will facilitate compliance with the environmental protection standards of this section, except that any such disturbance involving land above the highwall shall be limited to that amount of land necessary to facilitate compliance.

(D)(1) The chief may permit variances for the purposes set forth in division (D)(3) of this section, provided that the watershed control of the area is improved and that complete backfilling with spoil material shall be required to cover completely the highwall, which material will maintain stability following mining and reclamation.

(2) Where an applicant meets the requirements of divisions (D)(3) and (4) of this section, a variance from the requirement to restore to approximate original contour set forth in division (C)(2) of this section may be granted for the mining of coal when the owner of the surface knowingly requests in writing, as a part of the permit application, that such a variance be granted

so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use, including recreational facilities, in accordance with divisions (D)(3) and (4) of this section.

(3) A variance pursuant to division (D)(2) of this section may be granted if:

(a) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is considered to constitute an equal or better economic or public use.

(b) The postmining land condition is designed and certified by a registered professional engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) After approval of the appropriate state environmental agencies, the watershed of the affected land is considered to be improved.

(4) In granting a variance pursuant to division (D) of this section, the chief shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this chapter. All spoil placement off the mine bench shall comply with division (A)(21) of this section.

(5) The chief shall adopt specific rules to govern the granting of variances under division (D) of this section and may impose such additional requirements as the chief considers necessary.

(6) All variances granted under division (D) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(E) The chief shall establish standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in division (A)(13) of this section and division (A)(5) of section 1513.35 of the Revised Code. The standards and criteria shall conform to the standards and criteria used by the chief of the United States army corps of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this division shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction;

issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

(F)(1) The permittee may file a request with the chief for release of a part of a performance ~~bond or deposit~~ security under division (F)(3) of this section. Within thirty days after any request for ~~bond or deposit~~ performance security release under this section has been filed with the chief, the operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the coal mining operation. The advertisement shall be considered part of any ~~bond~~ performance security release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the ~~bond~~ performance security filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan and, if applicable, the operator's pollution abatement plan. In addition, as part of any ~~bond~~ performance security release application, the applicant shall submit copies of the letters sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the coal mining and reclamation activities took place, notifying them of the applicant's intention to seek release from the ~~bond~~ performance security.

(2) Upon receipt of a copy of the advertisement and request for release of a ~~bond or deposit~~ performance security under division (F)(3)(c) of this section, the chief, within thirty days, shall conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuation or future occurrence of the pollution, and the estimated cost of abating the pollution. The chief shall notify the permittee in writing of the decision to release or not to release all or part of the performance ~~bond or deposit~~ security within sixty days after the filing of the request if no public hearing is held pursuant to division (F)(6) of this section or, if there has been a public hearing held pursuant to division (F)(6) of this section, within thirty days thereafter.

(3) The chief may release the ~~bond or deposit~~ performance security if the reclamation covered by the ~~bond or deposit~~ performance security or portion thereof has been accomplished as required by this chapter and rules adopted under it according to the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a ~~bonded~~ an area for which performance security has been provided in accordance with the approved reclamation plan, and, if the area covered by the ~~bond or deposit performance security~~ is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall grant a release of fifty per cent of the ~~bond or deposit performance security~~ for the applicable permit area.

(b) After resoiling and revegetation have been established on the regraded mined lands in accordance with the approved reclamation plan, the chief shall grant a release in an amount not exceeding thirty-five per cent of the original ~~bond or deposit performance security~~ for all or part of the affected area under the permit. When determining the amount of ~~bond performance security~~ to be released after successful revegetation has been established, the chief shall retain that amount of ~~bond performance security~~ for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation for the period specified for operator responsibility in this section for reestablishing revegetation. No part of the ~~bond or deposit performance security~~ shall be released under this division so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of this section or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 1513.07 of the Revised Code. If the area covered by the ~~bond or deposit performance security~~ is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, no part of the ~~bond or deposit performance security~~ shall be released under this division until the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas. Where a silt dam is to be retained as a permanent impoundment pursuant to division (A)(10) of this section, the portion of ~~bond performance security~~ may be released under this division so long as provisions for sound future maintenance by the operator or the landowner have been made with the chief.

(c) When the operator has completed successfully all coal mining and reclamation activities, including, if applicable, all additional requirements established in the pollution abatement plan approved under division (E)(7) of section 1513.07 of the Revised Code and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall release all or any of the remaining portion of the ~~bond or deposit~~ performance security for all or part of the affected area under a permit, but not before the expiration of the period specified for operator responsibility in this section, except that the chief may adopt rules for a variance to the operator period of responsibility considering vegetation success and probability of continued growth and consent of the landowner, provided that no ~~bond~~ performance security shall be fully released until all reclamation requirements of this chapter are fully met.

(4) If the chief disapproves the application for release of the ~~bond or deposit~~ performance security or portion thereof, the chief shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release, and allowing the opportunity for a public adjudicatory hearing.

(5) When any application for total or partial ~~bond~~ performance security release is filed with the chief under this section, the chief shall notify the municipal corporation in which the coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the ~~bond~~ performance security.

(6) A person with a valid legal interest that might be adversely affected by release of a ~~bond~~ performance security under this section or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from the ~~bond~~ performance security with the chief within thirty days after the last publication of the notice required by division (F)(1) of this section. If written objections are filed and an informal conference is requested, the chief shall inform all interested parties of the time and place of the conference. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality of the coal mining operation proposed for ~~bond~~ performance security release for at least once a week for two consecutive weeks. The informal conference shall be held in the locality of the coal mining operation proposed for ~~bond~~

performance security release or in Franklin county, at the option of the objector, within thirty days after the request for the conference. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the ~~performance bond~~ performance security at issue. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

(7) If an informal conference has been held pursuant to division (F)(6) of this section, the chief shall issue and furnish the applicant and persons who participated in the conference with the written decision regarding the release within sixty days after the conference. Within thirty days after notification of the final decision of the chief regarding the ~~performance bond~~ performance security release, the applicant or any person with an interest that is or may be adversely affected by the decision may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

(8)(a) Except as provided in division (F)(8)(c) of this section, if the chief determines that a permittee is responsible for mine drainage that requires water treatment after reclamation is completed under the terms of the permit or that a permittee must provide an alternative water supply after reclamation is completed under the terms of the permit, the permittee shall provide alternative financial security in an amount determined by the chief prior to the release of the remaining portion of performance security under division (F)(3)(c) of this section. The alternative financial security shall be in an amount that is equal to or greater than the present value of the estimated cost over time to develop and implement mine drainage plans and provide water treatment or in an amount that is necessary to provide and maintain an alternative water supply, as applicable. The alternative financial security shall include a contract, trust, or other agreement or mechanism that is enforceable under law to provide long-term water treatment or a long-term alternative water supply, or both.

(b) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of division (F)(8)(a) of this section.

(c) Division (F)(8)(a) of this section does not apply while the chief's determination of a permittee's responsibility under that division is the subject of a good faith administrative or judicial appeal contesting the validity of the determination. If after completion of the appeal there is an enforceable administrative or judicial decision affirming or modifying the chief's determination, the permittee shall provide the alternative financial

security in an amount established in the administrative or judicial decision.

(9) Final release of the performance security in accordance with division (F)(3)(c) of this section terminates the jurisdiction of the chief under this chapter over the reclaimed site of a surface coal mining and reclamation operation or applicable portion of an operation. However, the chief shall reassert jurisdiction over such a site if the release was based on fraud, collusion, or misrepresentation of a material fact and the chief, in writing, demonstrates evidence of the fraud, collusion, or misrepresentation. Any person with an interest that is or may be adversely affected by the chief's determination may appeal the determination to the reclamation commission in accordance with section 1513.13 of the Revised Code.

(G) The chief shall adopt rules governing the criteria for forfeiture of ~~bond~~ performance security, the method of determining the forfeited amount, and the procedures to be followed in the event of forfeiture. Cash received as the result of such forfeiture is the property of the state.

Sec. 1513.17. (A) No person shall:

(1) Engage in coal mining or conduct a coal mining operation without a permit issued by the chief of the division of mineral resources management;

(2) Knowingly violate a condition or exceed the limits of a permit;

(3) Knowingly fail to comply with an order of the chief issued under this chapter;

(4) Knowingly violate any provision of this chapter not specifically mentioned in this section;

(5) Knowingly make any false statement, representation, or certification or knowingly fail to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or under a final order or decision issued by the chief;

(6) Knowingly prevent, hinder, delay, or otherwise obstruct the operator from completing backfilling, grading, resoiling, establishing successful vegetation, and meeting all other reclamation requirements of this chapter prior to the final release of the operator's ~~bond~~ performance security.

(B) Division (A)(1) of this section imposes strict criminal liability.

Sec. 1513.171. (A) For the purpose of claiming a credit under section 5749.11 of the Revised Code, an operator with a valid permit issued under section 1513.07 of the Revised Code may submit an application to the chief of the division of mineral resources management to perform reclamation on land or water resources that are not within the area of the applicant's permit and that have been adversely affected by past coal mining for which the performance security was forfeited. The chief shall provide the application

form. The application shall include all of the following:

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

(2) The valid permit number of the operator;

(3) An identification of the area or areas to be reclaimed;

(4) An identification of the owner of the land;

(5) A reclamation plan that describes the work to be done to reclaim the land or water resources. The plan shall include a description of how the plan is consistent with local physical, environmental, and climatological conditions and the measures to be taken during the reclamation to ensure the protection of water systems.

(6) An estimate of the total cost of the reclamation;

(7) An estimate of the timetables for accomplishing the reclamation;

(8) Any other requirements that the chief prescribes by rule.

The chief shall approve, disapprove, or approve with modifications the application concerning the proposed reclamation work. If the chief approves the application, the applicant may commence reclamation in accordance with the timetables included in the application. Upon the completion of the reclamation to the satisfaction of the chief, the chief shall issue a numbered reclamation tax credit certificate showing the amount of the credit and the identity of the recipient. Prior to the close of the fiscal quarter in which the tax credit certificate is issued, the chief shall certify to the tax commissioner the amount of the credit and the identity of the recipient.

(B) The chief shall determine the amount of the credit in accordance with this section and rules adopted under it. The amount of the credit shall be equal to the cost that the division of mineral resources management would have expended from the reclamation forfeiture fund created in section 1513.18 of the Revised Code to complete the reclamation.

(C) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer this section. The rules shall establish all of the following:

(1) A procedure that the chief shall use to determine the amount of the credit issued under this section;

(2) A procedure by which the chief may obtain consent of the owners of land or water resources to allow reclamation work for purposes of this section;

(3) A procedure for delivery of notice to the owners of land or water resources on which the reclamation work is to be performed. The rules shall require the notice to include the date on which the reclamation work is scheduled to begin.

Sec. 1513.18. (A) All money that becomes the property of the state

under 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 mineral resources management 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) The fund also shall consist of ~~any moneys transferred to it under this division from the unreclaimed lands fund created in section 1513.30~~ all money from the collection of liens under section 1513.081 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, fines collected under division (E) of section 1513.02 and section 1513.99 of the Revised Code, fines collected for a violation of section 2921.31 of the Revised Code that, prior to 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, 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 in accordance with division (D) of this section for the purpose of reclaiming areas 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 fund to pay necessary administrative costs, including engineering and design services, incurred by the division of mineral resources management in reclaiming these areas. The chief also may expend moneys from the fund to pay necessary administrative costs of the reclamation forfeiture fund advisory board created in section 1513.182 of the Revised Code as authorized by the board under that section. 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 forfeiture fund during any fiscal year.~~

(C) Except when paying necessary administrative costs authorized by division (B) of this section, expenditures from the 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 at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will best be served, 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 or trustee, if the performance security is held in trust, to complete reclamation to carry out reclamation on land affected by coal mining on which an operator has defaulted without advertising for bids.

(D) ~~If the amount of~~ (1) The chief shall expend money credited to the reclamation forfeiture fund from the forfeiture of the ~~bond~~ performance security applicable to ~~the an~~ 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, the chief may expend from the moneys credited to the fund 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~~ to pay for the cost of the reclamation work ~~to the standards required by this chapter of the land.~~

(2) If the performance security for the area of land was provided under division (C)(1) of section 1513.08 of the Revised Code, the chief shall use the money from the forfeited performance security to complete the

reclamation that the operator failed to do under the operator's applicable coal mining and reclamation permit issued under this chapter.

(3) If the performance security for the area of land was provided under division (C)(2) of section 1513.08 of the Revised Code, the chief shall use the money from the forfeited performance security to complete the reclamation that the operator failed to do under the operator's applicable coal mining and reclamation permit issued under this chapter. If the money credited to the reclamation forfeiture fund from the forfeiture of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code is not sufficient to complete the reclamation, the chief shall notify the reclamation forfeiture fund advisory board of the amount of the insufficiency. The chief may expend money credited to the reclamation forfeiture fund under section 5749.02 of the Revised Code or transferred to the fund under section 1513.181 of the Revised Code to complete the reclamation. The chief shall not expend money from the fund in an amount that exceeds the difference between the amount of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code and the estimated cost of reclamation as determined by the chief under divisions (B) and (E) of that section.

(4) Money from the reclamation forfeiture fund shall not be used for reclamation of land or water resources affected by material damage from subsidence, mine drainage that requires extended water treatment after reclamation is completed under the terms of the permit, or coal preparation plants or coal refuse disposal areas not located within a permitted area of a mine if performance security for the area of land was provided under division (C)(2) of section 1513.08 of the Revised Code.

(E) The chief shall keep a detailed accounting of the expenditures from the reclamation forfeiture 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 forfeiture fund, the attorney general shall bring an action for that amount of money. The operator is liable for that expense in addition to any other liabilities imposed by law. Moneys so recovered shall be credited to the reclamation forfeiture fund. 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~~ performance security amount applicable to the land that the operator should have, but failed to, reclaim.

(F) ~~If~~ Except as otherwise provided in division (H) of this section, 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.

(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.

(H) All investment earnings of the fund shall be credited to the fund and shall be used only for the reclamation of land for which performance security was provided under division (C)(2) of section 1513.08 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 mineral resources management may transfer not more than one million dollars annually from the fund to the reclamation 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, ~~or by surface 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~~ performance security is insufficient to complete the reclamation. Within ten days before or after the beginning of each calendar quarter, the chief may 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 reclamation forfeiture fund.

~~Fines collected under division (E) 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 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.~~

If the director of natural resources determines it to be necessary, the director may request the controlling board to transfer an amount of money from the coal mining administration and reclamation reserve fund to the

unreclaimed lands fund created in section 1513.30 of the Revised Code.

Sec. 1513.182. (A) There is hereby created the reclamation forfeiture fund advisory board consisting of the director of natural resources, the director of insurance, and seven members appointed by the governor with the advice and consent of the senate. Of the governor's appointments, one shall be a certified public accountant, one shall be a registered professional engineer with experience in reclamation of mined land, two shall represent agriculture, agronomy, or forestry, one shall be a representative of operators of coal mining operations that have valid permits issued under this chapter and that have provided performance security under division (C)(1) of section 1513.08 of the Revised Code, one shall be a representative of operators of coal mining operations that have valid permits issued under this chapter and that have provided performance security under division (C)(2) of section 1513.08 of the Revised Code, and one shall be a representative of the public.

Of the original members appointed by the governor, two shall serve an initial term of two years, three an initial term of three years, and two an initial term of four years. Thereafter, terms of appointed members shall be for four years, with each term ending on the same date as the original date of appointment. An appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner as original appointments. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The governor may remove an appointed member of the board for misfeasance, nonfeasance, or malfeasance.

The directors of natural resources and insurance shall not receive compensation for serving on the board, but shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties as members of the board. The members appointed by the governor shall receive per diem compensation fixed pursuant to division (J) of section 124.15 of the Revised Code and reimbursement for the actual and necessary expenses incurred in the performance of their duties.

(B) The board annually shall elect from among its members a chairperson, a vice-chairperson, and a secretary to record the board's meetings.

(C) The board shall hold meetings as often as necessary as the

chairperson or a majority of the members determines.

(D) The board shall establish procedures for conducting meetings and for the election of its chairperson, vice-chairperson, and secretary.

(E) The board shall do all of the following:

(1) Review the deposits into and expenditures from the reclamation forfeiture fund created in section 1513.18 of the Revised Code;

(2) Retain periodically a qualified actuary to perform an actuarial study of the reclamation forfeiture fund;

(3) Based on an actuarial study and as determined necessary by the board, adopt rules in accordance with Chapter 119. of the Revised Code to adjust the rate of the tax levied under division (A)(8) of section 5749.02 of the Revised Code and the balance of the reclamation forfeiture fund that pertains to that rate;

(4) Evaluate any rules, procedures, and methods for estimating the cost of reclamation for purposes of determining the amount of performance security that is required under section 1513.08 of the Revised Code; the collection of forfeited performance security; payments to the reclamation forfeiture fund; reclamation of sites for which operators have forfeited the performance security; and the compliance of operators with their reclamation plans;

(5) Provide a forum for discussion of issues related to the reclamation forfeiture fund and the performance security that is required under section 1513.08 of the Revised Code;

(6) Submit a report biennially to the governor that describes the financial status of the reclamation forfeiture fund and the adequacy of the amount of money in the fund to accomplish the purposes of the fund and that may discuss any matter related to the performance security that is required under section 1513.08 of the Revised Code;

(7) Make recommendations to the governor, if necessary, of alternative methods of providing money for or using money in the reclamation forfeiture fund and issues related to the reclamation of land or water resources that have been adversely affected by past coal mining for which the performance security was forfeited;

(8) Adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer this section.

Sec. 1513.29. There is hereby created the council on unreclaimed strip mined lands. Its members are the chief of the division of mineral resources management, four persons appointed by the director of natural resources, two members of the house of representatives appointed by the speaker of the house of representatives, one member of the house of representatives

appointed by the minority leader of the house of representatives, two members of the senate appointed by the president of the senate, and one member of the senate appointed by the minority leader of the senate.

Members who are members of the general assembly shall serve terms of four years or until their legislative terms end, whichever is sooner. Members appointed by the director shall serve terms of four years, except that the terms of the first four members shall be for two and four years, as designated by the director. Any vacancy in the office of a member of the council shall be filled by the appointing authority for the unexpired term of the member whose office will be vacant. The appointing authority may at any time remove a member of the council for misfeasance, nonfeasance, malfeasance, or conflict of interest in office.

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

The council shall gather information, study, and make recommendations concerning the number of acres, location, ownership, condition, environmental damage resulting from the condition, cost of acquiring, reclaiming, and possible future uses and value of eroded lands within the state, including land affected by strip mining for which no cash is held in the ~~strip mining~~ reclamation forfeiture fund created in section 1513.18 of the Revised Code.

The council may employ such staff and hire such consultants as necessary to perform its duties. Members appointed by the director and, notwithstanding section 101.26 of the Revised Code, members who are members of the general assembly, when engaged in their official duties as members of the council, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code. Members shall be reimbursed for their necessary expenses. Expenses incurred by the council and compensation provided under this section shall be paid by the chief ~~of the division of mineral resources management~~ from the unreclaimed lands fund created in section 1513.30 of the Revised Code.

The council shall report its findings and recommendations to the governor and the general assembly not later than January 1, 1974, and biennially thereafter.

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 mineral resources management and used for the purpose of reclaiming land,

public or private, affected by mining, or controlling mine drainage, for which no cash is held in the reclamation forfeiture fund created in section 1513.18 of the Revised Code or the surface mining 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 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 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 fund created in section 1509.02 of the Revised Code, 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 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.

If the director of natural resources determines it to be necessary, the director may request the controlling board to transfer an amount of money from the fund to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code.

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 mineral resources management. The fund shall consist of grants from the secretary of the interior 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 under it, and amendments 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 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 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, performance security, 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, performance security, or other form of financial guarantee for any such operation as provided under division (F) of section 1513.16 of the Revised Code. If the bond, performance security, or other form of financial guarantee 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, performance security, or other form of financial guarantee 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 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 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 under it, and amendments 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 secretary of the interior 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 secretary. 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:

(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:

(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.

(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.

(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 or the unreclaimed lands fund created in section 1513.30 of the Revised Code.

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

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

(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;

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

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

(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 mineral resources management, 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 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 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 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 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 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 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 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 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 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 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 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 voids, seal 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 division (H) of this section.

(I) 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 division (L) of this section without advertising for bids. Any such contract or any purchase of materials for emergency work under 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. 1513.371. There is hereby created in the state treasury the mined land set aside fund consisting of grants made by the United States secretary of the interior from the federal abandoned mine reclamation fund pursuant to section 402 of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1232. The chief of the division of mineral resources management shall administer the fund. Money in the fund shall be used solely for the purposes specified in divisions (B)(1) to (4) of section 1513.37 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

Sec. 1514.01. As used in this chapter:

(A) "Surface mining" means all or any part of a process followed in the

production of minerals from the earth or from the surface of the land by surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits, and the incidental removal of coal at a rate less than one-sixth the total weight of minerals and coal removed during the year, but does not include: test or exploration boring; mining operations carried out beneath the surface by means of shafts, tunnels, or similar mine openings; the extraction of minerals, other than coal, by a landowner for the landowner's own noncommercial use where such material is extracted and used in an unprocessed form on the same tract of land; the extraction of minerals, other than coal, from borrow pits for highway construction purposes, provided that the extraction is performed under a bond, a contract, and specifications that substantially provide for and require reclamation practices consistent with the requirements of this chapter; the removal of minerals incidental to construction work, provided that the owner or person having control of the land upon which the construction occurs, the contractor, or the construction firm possesses a valid building permit; the removal of minerals to a depth of not more than five feet, measured from the highest original surface elevation of the area to be excavated, where not more than one acre of land is excavated during twelve successive calendar months; routine dredging of a watercourse for purely navigational or flood control purposes during which materials are removed for noncommercial purposes; or the extraction or movement of soil or minerals within a solid waste facility, as defined in section 3734.01 of the Revised Code, that is a sanitary landfill when the soil or minerals are used exclusively for the construction, operation, closure, and post-closure care of the facility or for maintenance activities at the facility.

(B) "Minerals" means sand, gravel, clay, shale, gypsum, halite, limestone, dolomite, sandstone, other stone, metalliferous or nonmetalliferous ore, or other material or substance of commercial value excavated in a solid state from natural deposits on or in the earth, but does not include coal or peat.

(C) "Overburden" means all of the earth and other materials that cover a natural deposit of minerals and also means such earth and other materials after removal from their natural state in the process of surface mining.

(D) "Spoil bank" means a pile of removed overburden.

(E) "Area of land affected" means the area of land that has been excavated, or upon which a spoil bank exists, or both.

(F)(1) "Operation" or "surface mining operation" means all of the premises, facilities, and equipment used in the process of removing

minerals, or minerals and incidental coal, by surface mining from a mining area in the creation of which mining area overburden or minerals, or minerals and incidental coal, are disturbed or removed, such surface mining area being located upon a single tract of land or upon two or more contiguous tracts of land. Separation by a stream or roadway shall not preclude the tracts from being considered contiguous.

(2) When the context indicates, "operation" or "in-stream mining operation" means all of the premises, facilities, and equipment used in the process of removing minerals by in-stream mining from a mining area.

(G) "Operator" means any person engaged in surface mining who removes minerals, or minerals and incidental coal, from the earth by surface mining or who removes overburden for the purpose of determining the location, quality, or quantity of a mineral deposit. "Operator" also means any person engaged in in-stream mining who removes minerals from the bottom of the channel of a watercourse by in-stream mining.

(H) "Performance bond" means the surety bond required to be filed under section 1514.04 of the Revised Code and includes cash, an irrevocable letter of credit, and negotiable certificates of deposit authorized to be deposited in lieu of the surety bond under that section.

(I) "Dewatering" means the withdrawal of ground water from an aquifer or saturated zone that may result in the lowering of the water level within the aquifer or saturated zone or a decline of the potentiometric surface within that aquifer or saturated zone.

(J) "Ground water" means all water occurring in an aquifer.

(K) "Cone of depression" means a depression or low point in the water table or potentiometric surface of a body of ground water that develops around a location from which ground water is being withdrawn.

(L) "High water mark" means the line on the shore that is established by the fluctuations of water and indicated by physical characteristics such as a natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding area.

(M) "In-stream mining" means all or any part of a process followed in the production of minerals from the bottom of the channel of a watercourse that drains a surface area of more than one hundred square miles. "In-stream mining" may be accomplished by using any technique or by using surface excavation methods, such as open pit mining, dredging, placering, or quarrying, and includes the removal of overburden for the purpose of determining the location, quantity, or quality of mineral deposits. "In-stream

mining" does not include either of the following:

(1) Routine dredging for purely navigational or flood control purposes during which materials are removed for noncommercial purposes;

(2) The extraction of minerals, other than coal, by a landowner for the landowner's own noncommercial use when the material is extracted and used in an unprocessed form on the same tract of land.

For purposes of division (M) of this section, the number of square miles of surface area that a watercourse drains shall be determined by consulting the "gazetteer of Ohio streams," which is a portion of the Ohio water plan inventory published in 1960 by the division of water in the department of natural resources, or its successor, if any.

(N) In provisions concerning in-stream mining, when the context is appropriate, "land" is deemed to include an area of a watercourse.

(O) "Watercourse" means any naturally occurring perennial or intermittent stream, river, or creek flowing within a defined stream bed and banks.

(P) "Certified mine foreperson" means the person whom the operator of a surface mining operation places in charge of the conditions and practices at the mine, who is responsible for conducting workplace examinations under 30 C.F.R. part 56, as amended, and who has passed an examination for the position administered by the division of mineral resources management.

Sec. 1514.011. The division of mineral resources management has authority over all surface mining operations located in the state and shall exercise that authority as provided in this chapter.

Sec. 1514.03. Within thirty days after each anniversary date of issuance of a surface or in-stream mining permit, the operator shall file with the chief of the division of mineral resources management an annual report, on a form prescribed and furnished by the chief, that, for the period covered by the report, shall state the amount of and identify the types of minerals and coal, if any coal, produced and shall state the number of acres affected and the number of acres estimated to be affected during the next year of operation. An annual report is not required to be filed if a final report is filed in lieu thereof.

Each annual report for a surface mining operation shall include a progress map indicating the location of areas of land affected during the period of the report and the location of the area of land estimated to be affected during the next year. The map shall be prepared in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate, except that a map prepared in accordance with division (A)(12)

of that section may be certified by the operator or authorized agent of the operator in lieu of certification by a professional engineer or surveyor registered under Chapter 4733. of the Revised Code. However, the chief may require that an annual progress map or a final map be prepared by a registered professional engineer or registered surveyor if the chief has reason to believe that the operator exceeded the boundaries of the permit area or, if the operator filed the map required under division (A)(11) of section 1514.02 of the Revised Code, that the operator extracted ten thousand tons or more of minerals during the period covered by the report.

Each annual report for an in-stream mining operation shall include a statement of the total tonnage removed by in-stream mining for each month and of the surface acreage and depth of material removed by in-stream mining and shall include a map that identifies the area affected by the in-stream mining, soundings that depict the cross-sectional views of the channel bottom of the watercourse, and water elevations for the watercourse.

Each annual report shall be accompanied by a filing fee in the amount of five hundred dollars, except in the case of an annual report filed by a small operator or an in-stream mining operator. A small operator, which is a surface mine operator who intends to extract fewer than ten thousand tons of minerals and no coal during the next year of operation under the permit, or an in-stream mining operator shall include a filing fee in the amount of two hundred fifty dollars with each annual report. The annual report of any operator also shall be accompanied by an acreage fee in the amount of seventy-five dollars multiplied by the number of acres estimated in the report to be affected during the next year of operation under the permit. The acreage fee shall be adjusted by subtracting a credit of seventy-five dollars per excess acre paid for the preceding year if the acreage paid for the preceding year exceeds the acreage actually affected or by adding an additional amount of seventy-five dollars per excess acre affected if the acreage actually affected exceeds the acreage paid for the preceding year.

With each annual report the operator shall file a performance bond in the amount, unless otherwise provided by rule, of ~~one thousand~~ five hundred dollars multiplied by the number of acres estimated to be affected during the next year of operation under the permit for which no performance bond previously was filed. Unless otherwise provided by rule, the bond shall be adjusted by subtracting a credit of ~~one thousand~~ five hundred dollars per excess acre for which bond was filed for the preceding year if the acreage for which the bond was filed for the preceding year exceeds the acreage actually affected, or by adding an amount of ~~one thousand~~ five hundred

dollars per excess acre affected if the acreage actually affected exceeds the acreage for which bond was filed for the preceding year.

Within thirty days after the expiration of the surface or in-stream mining permit, or completion or abandonment of the operation, whichever occurs earlier, the operator shall submit a final report containing the same information required in an annual report, but covering the time from the last annual report to the expiration of the permit, or completion or abandonment of the operation, whichever occurs earlier.

Each final report shall include a map indicating the location of the area of land affected during the period of the report and the location of the total area of land affected under the permit. The map shall be prepared in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate.

In the case of a final report for an in-stream mining operation, the map also shall include the information required under division (A)(18) of section 1514.02 of the Revised Code.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is larger than the number of acres for which the operator has paid an acreage fee or filed a performance bond, upon notification by the chief, the operator shall pay an additional acreage fee in the amount of seventy-five dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has paid an acreage fee and shall file an additional performance bond in the amount, unless otherwise provided by rule, of ~~one thousand~~ five hundred dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

If the final report and certified map, as verified by the chief, show that the number of acres affected under the permit is smaller than the number of acres for which the operator has filed a performance bond, the chief shall order release of the excess bond. However, the chief shall retain a performance bond in a minimum amount of ten thousand dollars irrespective of the number of acres affected under the permit. The release of the excess bond shall be in an amount, unless otherwise provided by rule, equal to ~~one thousand~~ five hundred dollars multiplied by the difference between the number of acres affected under the permit and the number of acres for which the operator has filed bond.

The fees collected pursuant to this section and section 1514.02 of the Revised Code shall be deposited with the treasurer of state to the credit of the surface mining fund created under section 1514.06 of the Revised Code.

If upon inspection the chief finds that any filing fee, acreage fee, performance bond, or part thereof is not paid when due or is paid on the basis of false or substantially inaccurate reports, the chief may request the attorney general to recover the unpaid amounts that are due the state, and the attorney general shall commence appropriate legal proceedings to recover the unpaid amounts.

Sec. 1514.04. (A) Upon receipt of notification from the chief of the division of mineral resources management of the chief's intent to issue an order granting a surface or in-stream mining permit to the applicant, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount, unless otherwise provided by rule, of ten thousand dollars ~~plus one thousand~~. If the amount of land to be affected is more than twenty acres, the applicant also shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount of five hundred dollars per acre of land to be affected that exceeds twenty acres. Upon receipt of notification from the chief of the chief's intent to issue an order granting an amendment to a surface or in-stream mining permit, the applicant shall file a surety bond, cash, an irrevocable letter of credit, or certificates of deposit in the amount, ~~unless otherwise provided by rule, of one thousand dollars per acre of land to be affected~~ required in this division.

In the case of a surface mining permit, the bond shall be filed ~~for~~ based on the number of acres estimated to be affected during the first year of operation under the permit. In the case of an amendment to a surface mining permit, the bond shall be filed ~~for~~ based on the number of acres estimated to be affected during the balance of the period until the next anniversary date of the permit.

In the case of an in-stream mining permit, the bond shall be filed ~~for~~ based on the number of acres of land within the limits of the in-stream mining permit for the entire permit period. In the case of an amendment to an in-stream mining permit, the bond shall be filed ~~for~~ based on the number of any additional acres of land to be affected within the limits of the in-stream mining permit.

(B) A surety bond filed pursuant to this section and sections 1514.02 and 1514.03 of the Revised Code shall be upon the form that the chief prescribes and provides and shall be signed by the operator as principal and by a surety company authorized to transact business in the state as surety. The bond shall be payable to the state and shall be conditioned upon the faithful performance by the operator of all things to be done and performed by the operator as provided in this chapter and the rules and orders of the chief adopted or issued pursuant thereto.

The operator may deposit with the chief, in lieu of a surety bond, cash in an amount equal to the surety bond as prescribed in this section, an irrevocable letter of credit or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or an irrevocable letter of credit or certificates of deposit issued 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 this section. Cash or certificates of deposit shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. If one or more certificates of deposit are deposited with the chief in lieu of a surety bond, 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, or certificates, that is in excess of the amount insured by the federal deposit insurance corporation. The securities shall be security for the repayment of the certificate of deposit.

(C) Immediately upon a deposit of cash, a letter of credit, or certificates with the chief, the chief shall deliver it to the treasurer of state who shall hold it in trust for the purposes for which it has been deposited. The treasurer of state shall be responsible for the safekeeping of such deposits. An operator making a deposit of cash, a letter of credit, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any part of the cash, letter of credit, or certificates in the possession of the treasurer of state, upon depositing with the treasurer of state cash, an irrevocable letter of credit, or negotiable certificates of deposit issued by any bank organized or transacting business in this state, or an irrevocable letter of credit or certificates of deposit issued by any savings and loan association, equal in value to the value of the cash, letter of credit, or certificates withdrawn. An operator may demand and receive from the treasurer of state all interest or other income from any certificates as it becomes due. If certificates deposited with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the operator who deposited them, shall convert the proceeds of the redemption or payment of the certificates into such other negotiable certificates of deposit issued by any bank organized or transacting business in this state, such other certificates of deposit issued by any savings and loan association, or cash, as may be designated by the operator.

(D) A governmental agency, as defined in division (A) of section 1514.022 of the Revised Code, or a board or commission that derives its authority from a governmental agency shall not require a surface or

in-stream mining operator to file a surety bond or any other form of financial assurance for the reclamation of land to be affected by a surface or in-stream mining operation authorized under this chapter.

Sec. 1514.05. (A) At any time within the period allowed an operator by section 1514.02 of the Revised Code to reclaim an area of land affected by surface or in-stream mining, the operator may file a request, on a form provided by the chief of the division of mineral resources management, for inspection of the area of land upon which ~~a phase of the reclamation, other than any required planting,~~ is completed. ~~For purposes of inspections and subsequent releases of performance bonds or cash, irrevocable letters of credit, or certificates of deposit deposited in lieu of bonds under this section, reclamation shall be considered to occur in two phases. The first phase involves grading, contouring, terracing, resoiling, and initial planting. The second phase involves the establishment of vegetative cover together with the maintenance and the completion of all reclamation required under this chapter or rules adopted under it. The~~

~~A request for inspection at the completion of a phase of reclamation shall include all of the following:~~

- ~~(1) The location of the area and number of acres;~~
- ~~(2) The permit number;~~
- ~~(3) The amount of performance bond on deposit at the time of the request to ensure reclamation of the area;~~
- ~~(4) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate. In the case of an in-stream mining operation, the map also shall include the information required under division (A)(18) of section 1514.02 of the Revised Code.~~

~~In addition, a request for inspection of the second phase of reclamation shall include a description of the type and date of any required planting and a statement regarding the degree of success of the growth.~~

~~(B) The chief shall make an inspection and evaluation of the reclamation of the area of land for which a the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief approves ~~the first phase of the reclamation, other than any required planting,~~ as meeting the requirements of this chapter, rules adopted thereunder, any orders issued during the mining or reclamation, and the specifications of the plan for mining and reclaiming, the chief shall issue an order to the operator and the operator's surety releasing them from liability for ~~the applicable percentage specified~~~~

~~in this division one-half of the total amount~~ of their surety bond on deposit to ensure reclamation for the area upon which reclamation is completed. If ~~the chief approves the second phase of the reclamation, the chief shall order release of the remaining performance bond, after completing the inspection and evaluation, in the same manner as in the case of approval of the first phase of reclamation, and the treasurer of state shall proceed as in that case.~~

~~On approval of the first phase of reclamation, the chief shall release seventy five per cent of the amount of the surety bond on deposit. On approval of the second phase of reclamation, the chief shall release the remaining amount of the surety bond that originally was on deposit.~~

If the operator has deposited cash, an irrevocable letter of credit, or certificates of deposit in lieu of a surety bond to ensure reclamation, the chief shall issue an order to the operator releasing one-half of the amount so held ~~in the same manner and in the same percentages that apply to the release of a surety bond~~ and promptly shall transmit a certified copy of the order to the treasurer of state. Upon presentation of the order to the treasurer of state by the operator to whom it was issued, or by the operator's authorized agent, the treasurer of state shall deliver to the operator or the operator's authorized agent the cash, irrevocable letter of credit, or certificates of deposit designated in the order.

~~(C)~~ If the chief does not approve ~~a phase of the reclamation,~~ other than any required planting, the chief shall notify the operator by certified mail. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the performance bond in the same manner as in the case of approval of reclamation, other than any required planting, by the chief, and the treasurer of state shall proceed as in that case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall issue another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief shall thereupon proceed under division ~~(D)~~(C) of this section.

~~(D)~~(B) At any time within the period allowed an operator by section

1514.02 of the Revised Code to reclaim an area affected by surface mining, the operator may file a request, on a form provided by the chief, for inspection of the area of land on which all reclamation, including the successful establishment of any required planting, is completed. The request shall include all of the following:

(1) The location of the area and number of acres;

(2) The permit number;

(3) The type and date of any required planting of vegetative cover and the degree of success of growth;

(4) A map showing the location of the acres reclaimed, prepared and certified in accordance with division (A)(11) or (12) of section 1514.02 of the Revised Code, as appropriate. In the case of an in-stream mining operation, the map also shall include the information required under division (A)(18) of section 1514.02 of the Revised Code.

The chief shall make an inspection and evaluation of the reclamation of the area of land for which the request was submitted within ninety days after receipt of the request or, if the operator fails to complete the reclamation or file the request as required, as soon as the chief learns of the default. Thereupon, if the chief finds that the reclamation meets the requirements of this chapter, rules adopted under it, any orders issued during the mining and reclamation, and the specifications of the plan for mining and reclaiming and decides to release any remaining performance bond on deposit to ensure reclamation of the area on which reclamation is completed, within ten days of completing the inspection and evaluation, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation other than required planting, and the treasurer of state shall proceed as in that case.

If the chief does not approve the reclamation performed by the operator, the chief shall notify the operator by certified mail within ninety days of the filing of the application for inspection or of the date when the chief learns of the default. The notice shall be an order stating the reasons for unacceptability, ordering further actions to be taken, and setting a time limit for compliance. If the operator does not comply with the order within the time limit specified, the chief may order an extension of time for compliance after determining that the operator's noncompliance is for good cause, resulting from developments partially or wholly beyond the operator's control. If the operator complies within the time limit or the extension of time granted for compliance, the chief shall order release of the remaining performance bond in the same manner as in the case of approval of reclamation by the chief, and the treasurer of state shall proceed as in that

case. If the operator does not comply within the time limit and the chief does not order an extension, or if the chief orders an extension of time and the operator does not comply within the extension of time granted for compliance, the chief shall issue another order declaring that the operator has failed to reclaim and, if the operator's permit has not already expired or been revoked, revoking the operator's permit. The chief then shall proceed under division (C) of this section.

(C) Upon issuing an order under division ~~(C)~~(A) or (B) of this section declaring that the operator has failed to reclaim, the chief shall ~~retain all or part of the performance bond on deposit for reclamation of the affected surface or in-stream mine site. The~~ make a finding as to the number and location of the acres of land that the operator has failed to reclaim in the manner required by this chapter. The chief shall order the release of the performance bond in the amount of five hundred dollars per acre for those acres that the chief finds to have been reclaimed in the manner required by this chapter. The release shall be ordered in the same manner as in the case of other approval of reclamation by the chief, and the treasurer of state shall proceed as in that case. If the operator has on deposit cash, an irrevocable letter of credit, or certificates of deposit to ensure reclamation of the area of the land affected, the chief at the same time shall issue an order declaring that the remaining cash, irrevocable letter of credit, or certificates of deposit; ~~if any,~~ are the property of the state and are available for use by the chief in performing reclamation of the area and shall proceed in accordance with section 1514.06 of the Revised Code.

If the operator has on deposit a surety bond to ensure reclamation of the area of land affected, the chief shall notify the surety in writing of the operator's default and shall request the surety to perform the surety's obligation and that of the operator. The surety, within ten days after receipt of the notice, shall notify the chief as to whether it intends to perform those obligations.

If the surety chooses to perform, it shall arrange for work to begin within thirty days of the day on which it notifies the chief of its decision. If the surety completes the work as required by this chapter, the chief shall issue an order to the surety releasing the surety from liability under the bond in the same manner as if the surety were an operator proceeding under this section. If, after the surety begins the work, the chief determines that the surety is not carrying the work forward with reasonable progress, or that it is improperly performing the work, or that it has abandoned the work or otherwise failed to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work

and demanding payment of the amount due as required by this chapter.

If the surety chooses not to perform and so notifies the chief, does not respond to the chief's notice within ten days of receipt thereof, or fails to begin work within thirty days of the day it timely notifies the chief of its decision to perform its obligation and that of the operator, the chief shall issue an order terminating the right of the surety to perform the work and demanding payment of the amount due, as required by this chapter.

Upon receipt of an order of the chief demanding payment of the amount due, the surety immediately shall deposit with the chief cash in the full amount due under the order for deposit with the treasurer of state. If the surety fails to make an immediate deposit, the chief shall certify it to the attorney general for collection. When the chief has issued an order terminating the right of the surety and has the cash on deposit, the cash is the property of the state and is available for use by the chief, who shall proceed in accordance with section 1514.06 of the Revised Code.

Sec. 1514.051. (A) If an operator or a partner or officer of the operator forfeits a performance bond, the division of mineral resources management shall have a priority lien in front of all other interested creditors against the assets of that operator for the amount that is needed to perform any reclamation that is required as a result of the operator's mining activities. The chief of the division of mineral resources management shall file a statement in the office of the county recorder of each county in which the mined land lies of the estimated costs to reclaim the land. Estimated costs shall include direct and indirect costs of the development, design, construction, management, and administration of the reclamation. The statement shall constitute a lien on the assets of the operator as of the date of the filing. The lien shall continue in force so long as any portion of the lien remains unpaid or until the chief issues a certificate of release of the lien. If the chief issues a certificate of release of the lien, the chief shall file a certificate of release in the office of each applicable county recorder.

(B) The chief promptly shall issue a certificate of release under any of the following circumstances:

(1) Upon the repayment in full of the money that is necessary to complete the reclamation;

(2) Upon the transfer of an existing permit that includes the areas of the surface mine for which reclamation was not completed from the operator that forfeited the performance bond to a new operator;

(3) Any other circumstance that the chief determines to be in the best interests of the state.

(C) The chief may modify the amount of a lien under this section. If the

chief modifies a lien, the chief shall file a statement in the office of the county recorder of each applicable county of the new amount of the lien.

(D) The chief may authorize a closing agent to hold a certificate of release in escrow for a period not to exceed one hundred eighty days for the purpose of facilitating the transfer of unreclaimed mine land.

(E) All money from the collection of liens under this section shall be deposited in the state treasury to the credit of the surface mining fund created in section 1514.06 of the Revised Code.

Sec. 1514.06. (A) There is hereby created in the state treasury the surface mining fund. ~~All cash~~ consisting of all money that becomes the property of the state pursuant to ~~section~~ sections 1514.05 and 1514.051 of the Revised Code ~~shall be deposited in the fund, and expenditures, money credited to the fund under divisions (C)(1) and (2) of section 1514.071, and other money specified in section 1514.11 of the Revised Code. All investment earnings of the fund shall be credited to the fund. Expenditures from the fund shall be made by the chief of the division of mineral resources management only for the purpose of reclaiming areas of land affected by surface or in-stream mining operations on which an~~ under a permit issued under this chapter that the operator has defaulted failed to reclaim and for other purposes specified in section 1514.11 of the Revised Code.

(B) Expenditures of moneys from the fund, except as otherwise provided by this section, shall 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 the contracts, for the prices stipulated therein. With the approval of the director of natural resources, the chief may reclaim the land in the same manner as the chief required of the operator who ~~defaulted~~ failed to reclaim the land. 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 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 so advertising for bids, 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 the chief considers the public interest will be best served, 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.

(C) With the approval of the director, the chief, without advertising for bids, may enter into a contract with the landowner, a surface or in-stream mine operator or coal mine operator mining under a current, valid permit issued under this chapter or Chapter 1513. of the Revised Code, or a contractor hired by a surety to complete reclamation, to carry out reclamation on land affected by surface or in-stream mining operations ~~on which~~ that an operator has defaulted failed to reclaim.

(D) With the approval of the director, the chief may carry out all or part of the reclamation work on land affected by surface or in-stream mining operations ~~on which~~ that the operator has defaulted failed to reclaim using the employees and equipment of any division of the department of natural resources.

(E) The chief shall require every contractor performing reclamation work under 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.

(F) Each contract entered into by the chief under this section shall provide only for the reclamation of land affected by the surface or in-stream mining operation or operations of one operator and not reclaimed by the operator as required by this chapter. If there is money in the fund derived from the performance bond deposited with the chief by one operator to ensure the reclamation of two or more areas of land affected by the surface or in-stream mining operation or operations of one operator and not reclaimed by the operator as required by this chapter, the chief may award a single contract for the reclamation of all such areas of land.

(G) The cost of the reclamation work done under this section on each area of land affected by surface or in-stream mining operations ~~on which~~ that an operator has defaulted failed to reclaim shall be paid out of the money in the fund derived from the performance bond that was deposited with the chief to ensure the reclamation of that area of land. If the amount of money is not sufficient to pay the cost of doing all of the reclamation work on the area of land that the operator should have done, but failed to do, the chief may expend from the reclamation forfeiture fund created in section 1513.18 of the Revised Code or the surface mining fund created in this section the amount of money needed to complete reclamation to the standards required by this chapter. The operator is liable for that expense in addition to any other liabilities imposed by law. At the request of the chief, the attorney general shall bring an action against the operator for the amount

of the expenditures from either fund. Moneys so recovered shall be deposited in the state treasury to the appropriate credit of the fund from which the expenditures were made.

(H) If any part of the money in the surface mining 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, or if any money remains because the area of land has been repermited under this chapter or reclaimed by a person other than the chief, the chief may expend the remaining money to complete other reclamation work performed under this section. The chief shall prepare an annual report that summarizes the money credited to the fund and expenditures made from the fund and post the report on the division of mineral resources management's web site.

Sec. 1514.09. The reclamation commission established pursuant to section 1513.05 of the Revised Code shall serve as the reclamation commission pursuant to this chapter. However, whenever the commission is considering any appeal pertaining to surface or in-stream mining, as distinguished from coal strip mining, the member representing the coal strip mine operators shall be replaced by a person who, by reason of the person's previous vocation, employment, or affiliations, can be classed as a representative of surface or in-stream mine operators, as applicable. The appointment of that person shall be made in accordance with section 1513.05 of the Revised Code, and the person's term shall be concurrent with that of the representative of the coal strip mine operators.

No party to an appeal brought under this section shall be eligible for an award of attorney's fees, costs, or expenses from the commission or any court.

Notwithstanding section 1513.13 of the Revised Code, an operator may appeal the determination of the chief of the division of mineral resources management that is made under division (D) of section 1514.43 of the Revised Code within ten days after the operator receives a copy of the determination.

Notwithstanding section 1513.14 of the Revised Code, appeals from an order of the commission pertaining to surface or in-stream mining may be taken to the court of common pleas of the county in which the operation is located, or to the court of common pleas of Franklin county.

Sec. 1514.11. In addition to the purposes authorized in section 1514.06 of the Revised Code, the chief of the division of mineral resources management may use moneys in the surface mining fund created under that section for the administration and enforcement of this chapter, for the reclamation of land affected by surface or in-stream mining under a permit

issued under this chapter that the operator failed to reclaim and for which the performance bond filed by the operator is insufficient to complete the reclamation, and for the reclamation of land affected by surface or in-stream mining that was abandoned and left unreclaimed and for which no permit was issued or bond filed under this chapter. Also, the chief may use the portion of the surface mining fund that consists of moneys collected from the severance taxes levied under section 5749.02 of the Revised Code for ~~the mine safety and first aid classes provided under division (C) of section 1561.26 of the Revised Code~~ training. For purposes of this section, the chief shall expend moneys in the fund in accordance with the procedures and requirements established in section 1514.06 of the Revised Code and may enter into contracts and perform work in accordance with that section.

Fees collected under sections 1514.02 and 1514.03 of the Revised Code, one-half of the moneys collected from the severance taxes levied under divisions (A)(3) and (4) of section 5749.02 of the Revised Code, and all of the moneys collected from the severance tax levied under division (A)(7) of section 5749.02 of the Revised Code shall be credited to the fund in accordance with those sections. 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 section 1514.99 of the Revised Code shall be credited to the fund.

Sec. 1514.40. In accordance with Chapter 119. of the Revised Code, the chief of the division of mineral resources management, in consultation with a statewide association that represents the surface mining industry, shall adopt rules that do all of the following:

(A) For the purpose of establishing safety standards governing surface mining operations, incorporate by reference 30 C.F.R. parts 46, 47, 50, 56, 58, and 62, as amended;

(B) Establish criteria, standards, and procedures governing safety performance evaluations conducted under section 1514.45 of the Revised Code, including requirements for the notification of operators and the identification of authorized representatives of miners at surface mining operations for purposes of inspections conducted under sections 1541.41 to 1541.47 of the Revised Code;

(C) Establish requirements governing the reporting and investigation of accidents at surface mining operations. In adopting the rules, the chief shall establish requirements that minimize duplication with any reporting and investigations of accidents that are conducted by the mine safety and health administration in the United States department of labor.

(D) Establish the time, place, and frequency of mine safety training

conducted under section 1514.06 of the Revised Code and a fee, if any, for the purpose of that section. The amount of the fee shall not exceed the costs of conducting the training that is required under that section.

(E) Establish the minimum qualifications necessary to take the examination that is required for certification of certified mine forepersons under division (B) of section 1514.47 of the Revised Code and requirements, fees, and procedures governing the taking of the examination;

(F) Establish requirements and fees governing the renewal of certificates under division (C) of that section;

(G) Establish requirements and procedures for the approval of training plans submitted under division (E) of that section for the use of qualified persons to conduct examinations of surface mining operations in lieu of certified mine forepersons and minimum qualifications of those persons. The rules shall include requirements governing training frequency and curriculum that must be provided for qualified persons under such plans and shall establish related reporting and record keeping requirements.

As used in sections 1514.41 to 1514.47 of the Revised Code, "rule" means a rule adopted under this section unless the context indicates otherwise.

Sec. 1514.41. (A) If a surface mining operation is not inspected by the mine safety and health administration in the United States department of labor, the chief of the division of mineral resources management annually shall conduct a minimum of two inspections of the operation.

(B) If a surface mining operation is identified through a safety performance evaluation conducted under section 1514.45 of the Revised Code and rules as having lost-time accidents in an amount greater than the national average, the chief shall conduct a minimum of two inspections of the operation for one year following the identification.

(C) If a fatality of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, the chief shall conduct a minimum of one inspection every three months at the operation for two years following the fatality.

(D) If a life-threatening injury of a miner occurs at a surface mining operation as a result of an unsafe condition or a practice at the operation, the chief shall conduct a minimum of one inspection every three months at the operation for one year following the injury.

Sec. 1514.42. The chief of the division of mineral resources management shall conduct a safety audit at a surface mining operation if the operator of the operation has requested the division of mineral resources management to conduct mine safety training. The chief shall conduct

additional safety audits at any surface mining operation if requested by the operator of the operation. If the chief conducts a safety audit, the operator shall ensure that the chief has a copy of the training plan that is required by 30 C.F.R. part 46, as amended, at the time of the audit.

After completion of an audit, the chief shall prepare a report that describes the general conditions of the surface mining operation, lists any hazardous conditions at the operation, lists any violations of the safety standards established in rules, and describes the nature and extent of any hazardous condition or violation found and the corresponding remedy for each hazardous condition or violation. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

Sec. 1514.43. (A) The chief of the division of mineral resources management shall enforce the safety standards established in rules when conducting inspections under section 1514.41 of the Revised Code.

(B) Except as otherwise provided in section 1514.44 of the Revised Code or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, if during an inspection the chief finds a violation of a safety standard, the chief shall require the operator to comply with the standard that is being violated within a reasonable period of time. If the chief finds a violation of a safety standard, the chief shall return to the surface mining operation after a reasonable period of time to determine if the operator has complied with the standard that was being violated. If the operator has failed to comply with the standard, the chief shall take appropriate action to obtain compliance if necessary.

(C) Except as otherwise provided in section 1514.44 of the Revised Code or pursuant to a safety audit conducted under section 1514.42 of the Revised Code, after completion of an inspection of a surface mining operation, the chief shall prepare a report that describes the general conditions of the surface mining operation, lists any hazardous conditions at the operation, lists any violations of the safety standards established in rules, and describes the nature and extent of any hazardous condition or violation found and the corresponding remedy for each hazardous condition or violation. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

(D) Except pursuant to a safety audit conducted under section 1514.42 of the Revised Code, not later than ten days after receipt of a report under this section, the operator may submit a written request to the chief for a meeting with the chief to review the findings contained in the report. Upon

receipt of a request, the chief shall review the report and schedule a meeting with the operator. Within a reasonable period of time after the meeting, the chief shall make a written determination concerning the findings contained in the report and provide one copy of the determination to the operator of the surface mining operation and one copy of the determination to an authorized representative of the miners at the operation. If the chief makes a determination that affirms the findings contained in the report, the chief's determination constitutes an order for purposes of this chapter and rules adopted under it.

(E) An operator shall not appeal the contents of a report prepared under division (C) of this section. However, an operator may appeal a determination of the chief made under division (D) of this section.

(F) No operator shall violate or fail to comply with an order issued pursuant to this section.

Sec. 1514.44. If during an inspection conducted under section 1514.41 of the Revised Code or a safety audit conducted under section 1514.42 of the Revised Code, the chief of the division of mineral resources management finds a condition or practice at a surface mining operation that could reasonably be expected to cause the death of or imminent serious physical harm to an employee of the operation, the chief immediately shall issue orders to safeguard the employees, notify the operator of the condition or practice, and require the operator to abate the condition or practice within a reasonable period of time. In all such situations, the chief may require the operation to cease in the area in which the condition or practice is occurring or may require the entire operation to cease, if necessary, until the condition or practice that could reasonably be expected to cause death or serious physical harm is eliminated.

The chief shall complete a report that describes the condition or practice and the action taken to eliminate it. The chief shall provide two copies of the report to the operator of the operation. The operator shall post one copy of the report at the operation for review by the employees of the operation.

Sec. 1514.45. The chief of the division of mineral resources management annually shall conduct a safety performance evaluation of all surface mining operations in the state in accordance with rules. The operator of a surface mining operation shall provide to the chief a copy of the notification of legal identity required under 30 C.F.R. part 41, as amended, at the same time that the notice is filed with the mine safety and health administration in the United States department of labor.

Sec. 1514.46. If the operator of a surface mining operation requests the division of mineral resources management to conduct mine safety training,

the chief of the division of mineral resources management shall conduct mine safety training for the employees of that operator. For persons who are not employed by a holder of a surface mining permit issued under this chapter and who seek the training, the chief may charge a fee in an amount established in rules for conducting it. The safety training shall be conducted in accordance with rules and shall emphasize the standards adopted in rules and include any other content that the chief determines is beneficial. Any fees collected under this section shall be deposited in the state treasury to the credit of the surface mining fund created in section 1514.06 of the Revised Code.

Sec. 1514.47. (A) The operator of a surface mining operation shall employ a certified mine foreperson or a person who is qualified in accordance with this section and rules to conduct examinations of surface mining operations for purposes of 30 C.F.R. part 56, as amended.

(B) The chief of the division of mineral resources management shall conduct examinations for the position of certified mine foreperson in accordance with rules. In order to be eligible for examination as a certified mine foreperson, an applicant shall file with the chief an affidavit establishing the applicant's qualifications to take the examination. The chief shall grade examinations and issue certificates.

(C) A certificate issued under this section shall expire five years after the date of issuance. A certificate may be renewed, provided that the applicant verifies that all required training pursuant to 30 C.F.R. part 46, as amended, has been completed and any other requirements for renewal have been satisfied.

(D) If a certificate issued under this section is suspended, the certificate shall not be renewed until the suspension period expires and the person whose certificate is suspended successfully completes all actions required by the chief. If an applicant's license, certificate, or similar authority that is issued by another state to perform specified mining duties is suspended or revoked by that state, the applicant shall be ineligible for examination for or renewal of a certificate in this state during that period of suspension or revocation. A certificate that has been revoked shall not be renewed.

If a person who has been certified by the chief under this section purposely violates this chapter, the chief may suspend or revoke the certificate after an investigation and hearing conducted in accordance with Chapter 119. of the Revised Code are completed.

(E) In lieu of employing a certified mine foreperson, the operator of a surface mining operation may submit to the chief a detailed training plan under which persons who qualify under the plan may conduct and document

examinations at the surface mining operation for purposes of 30 C.F.R. part 56, as amended. The chief shall review the plan and determine if the plan complies with the requirements established in rules. The chief shall approve or deny the plan and notify in writing the operator who submitted the plan of the chief's decision.

Sec. 1514.50. (A) The chief of the division of mineral resources management or an authorized employee of the division of mineral resources management may enter on lands to make inspections in accordance with this chapter and rules adopted under it when necessary in the discharge of the duties specified in this chapter and the rules. No person shall prevent or hinder the chief or an authorized employee of the division in the performance of those duties.

(B) For purposes of performing reclamation of land affected by surface mining operations on which the holder of a permit issued under this chapter has defaulted or otherwise failed to timely conduct the reclamation required by section 1514.05 of the Revised Code, the chief may enter on the land and perform reclamation that the chief determines is necessary to protect public health or safety or the environment. In order to perform the reclamation, the chief may enter on adjoining land or other land that is necessary to access the land on which the surface mining occurred and on which the reclamation is to be performed. The chief shall provide reasonable advance notice to the owner of any land to be entered for the purpose of access for reclamation under this chapter. The division shall return the land that was used to access the former surface mining operation to the same or an improved grade, topography, and condition that existed prior to its use by the division.

(C) When conducting investigations pursuant to section 1514.13 of the Revised Code, the chief or an authorized employee of the division may enter on lands to conduct water supply surveys, measure ground water levels and collect data when necessary to define the cone of depression, or perform other duties for the purposes of that section.

Sec. 1514.99. (A) Whoever violates division (A)(1) or (2) of section 1514.10 of the Revised Code may be fined not more than five thousand dollars plus not more than one thousand dollars per acre of land affected, and is responsible for achieving reclamation of the land as required pursuant to this chapter.

(B) Whoever violates division (B) of section 1514.10 of the Revised Code may be fined not more than one thousand dollars per acre of land affected that is not under permit, and is responsible for achieving reclamation of the land as required pursuant to this chapter.

(C) Whoever violates division (C) of section 1514.10 of the Revised

Code may be fined not less than one hundred nor more than one thousand dollars, or imprisoned not more than six months, or both.

(D) Whoever violates division (D), (E), (F), or (G) of section 1514.10 of the Revised Code may be fined not less than one hundred nor more than one thousand dollars for a first offense. For each subsequent offense, on one or more permits held by such persons, such person may be fined not less than two hundred nor more than five thousand dollars, or imprisoned not more than six months, or both. The permit of any person convicted of a third offense may be revoked by the court at the time of that conviction, and the court at that time may further order that no permit or amendment to a permit may be issued to that person under this chapter for a period of five years from the date of the conviction. Nothing contained in this section shall be construed to limit or affect the authority of the chief of the division of mineral resources management granted by this chapter.

(E) Whoever violates an order of the chief of the division of mineral resources management issued under this chapter is guilty of a minor misdemeanor.

Sec. 1515.093. The supervisors of a soil and water conservation district may hold one or more credit cards on behalf of the district and may authorize any supervisor or employee of the district to use such a credit card to pay for expenses related to the purposes of the district. The supervisors shall pay the debt incurred as a result of the use of such a credit card from money accepted by the supervisors as authorized under division (E) of section 1515.08 of the Revised Code or from the special fund established for the district under section 1515.10 of the Revised Code.

The misuse of a credit card held on behalf of a soil and water conservation district is a violation of section 2913.21 of the Revised Code. In addition, a supervisor or employee of a district who makes unauthorized use of such a credit card may be held personally liable to the district for the unauthorized use. This section does not limit any other liability of a supervisor or employee of a district for the unauthorized use of such a credit card.

A supervisor or employee of a soil and water conservation district who is authorized to use a credit card that is held on behalf of the district and who suspects the loss, theft, or possibility of another person's unauthorized use of the credit card immediately shall notify the supervisors in writing of the suspected loss, theft, or possible unauthorized use.

Sec. 1515.10. The board of county commissioners of each county in which there is a soil and water conservation district may levy a tax within the ten-mill limitation and may appropriate money from the proceeds of

~~such~~ the levy or from the general fund of the county, ~~which~~. The money shall be held in a special fund for the credit of the district, to be expended for the purposes prescribed in ~~section~~ sections 1515.09 and 1515.093 of the Revised Code, for construction and maintenance of improvements by the district, and for other expenses incurred in carrying out the program of the district upon the written order of the fiscal agent for the district after authorization by a majority of the supervisors of the district.

Sec. 1515.211. (A) A board of county commissioners that approves construction of a proposed improvement or the board's designee shall prepare a schedule of estimated assessments on property within the area that is to be benefited by the improvement. In preparing the schedule, the board or its designee shall use information concerning the proposed improvement that must be submitted to the board by the supervisors of a soil and water conservation district. The information includes plans for the proposed improvement, including surveys, maps, and specifications, together with schedules of damages, cost estimates, and any related reports that the supervisors or their designee prepared.

The schedule of estimated assessments that must be prepared shall include the name and address of each owner of land believed to be benefited by the proposed improvement together with a description of the land. The names and descriptions shall be obtained from the tax duplicates of the county. The board or its designee shall enter in the schedule the amount of each estimated assessment, which shall be determined using considerations established in section 1515.24 of the Revised Code. In no case shall an assessment be less than twenty-five dollars for each parcel of land, except in the case of a multi-parcel lot, in which case the board may charge a minimum of twenty-five dollars with respect to all of the parcels comprising the multi-parcel lot. In addition, the board may charge an assessment of less than twenty-five dollars if the board determines that a lower amount is appropriate, provided that the lower amount includes the cost of preparing and mailing the notice required under division (D)(1) of section 1515.24 of the Revised Code. The total of the estimated assessments, including the total estimated assessments allocated to public corporations and the state, shall equal the estimated cost of the proposed improvement. The board shall use the schedule of estimated assessments for purposes of levying final assessments under section 1515.24 of the Revised Code.

(B) As used in this section, "multi-parcel lot" means a site on which a dwelling is located and that comprises two or more contiguous parcels of land.

Sec. 1517.02. There is hereby created in the department of natural

resources the division of natural areas and preserves, which shall be administered by the chief of natural areas and preserves. The chief shall take an oath of office and shall file in the office of the secretary of state a bond signed by the chief and by a surety approved by the governor for a sum fixed pursuant to section 121.11 of the Revised Code.

The chief shall administer a system of nature preserves and wild, scenic, and recreational river areas. The chief shall establish a system of nature preserves through acquisition and dedication of natural areas of state or national significance, which shall include, but not be limited to, areas that represent characteristic examples of Ohio's natural landscape types and its natural vegetation and geological history. The chief shall encourage landowners to dedicate areas of unusual significance as nature preserves, and shall establish and maintain a registry of natural areas of unusual significance.

The chief may supervise, operate, protect, and maintain wild, scenic, and recreational river areas, as designated by the director of natural resources. The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

The chief shall do the following:

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves;

(B) Formulate policies for the selection of areas suitable for registration;

(C) Formulate policies for the dedication of areas as nature preserves;

(D) Prepare and maintain surveys and inventories of natural areas ~~and habitats of~~, rare and endangered species of plants and animals, ~~and other unique natural features.~~ The information shall be stored in the Ohio natural heritage database, established pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1518.01 of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature.

(E) Adopt rules for the use, visitation, and protection of nature preserves, natural areas owned or managed through easement, license, or lease by the department and administered by the division, and 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, in accordance with Chapter 119. of the Revised Code;

(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character;

(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for their visitation and use;

(H) Conduct and grant permits to qualified persons for the conduct of scientific research and investigations within nature preserves;

(I) Establish an appropriate system for marking nature preserves;

(J) Publish and submit to the governor and the general assembly a biennial report of the status and condition of each nature preserve, activities conducted within each preserve, and plans and recommendations for natural area preservation.

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 and 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, 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 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 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.

(3) A preserve officer may render assistance to a state or local law enforcement officer at the request of the officer or in the event of an emergency. Preserve officers serving outside the division of natural areas and preserves 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.

Preserve officers serving outside the division of natural areas and preserves under this section or under the terms of 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 preserve 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 a result of any action or omission of any preserve officer acting under this section or under a mutual aid compact.

(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 2929.43 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. 1517.11. There is hereby created in the state treasury the natural areas and preserves fund, which shall consist of moneys transferred into it under section 5747.113 of the Revised Code and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in that section.

Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of natural areas and preserves solely for the following purposes:

(A) The acquisition of new or expanded natural areas, nature preserves, and wild, scenic, and recreational river areas;

(B) Facility development in natural areas, nature preserves, and wild, scenic, and recreational river areas;

(C) Special projects, including, but not limited to, biological inventories,

research grants, and the production of interpretive material related to natural areas, nature preserves, and wild, scenic, and recreational river areas;

(D) Routine maintenance for health and safety purposes.

Moneys appropriated from the fund shall not be used to fund salaries of permanent employees; or administrative costs; ~~or routine maintenance.~~

All investment earnings of the fund shall be credited to the fund.

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~~ 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 the director determines appropriate for, any such 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, with the approval of the director determine,~~ determines 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, with the approval of the director, 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 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)(1) 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.

(2) On behalf of the director, the division of water shall have the care and control of all canals and canal reservoirs owned by the state, the water in them, and canal lands and shall protect, operate, and maintain them and keep them in repair. The chief of the division of water may remove obstructions from or on them and shall make any alterations or changes in or to them and construct any feeders, dikes, reservoirs, dams, locks, or other works, devices, or improvements in or on them that are necessary in the discharge of the chief's duties.

In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules that are necessary for the administration of this division.

(C) The director may sell or lease water from any canal or canal reservoir that 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 may adopt, 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 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. 1520.05. There is hereby created in the state treasury the canal lands fund, which shall be composed of all moneys received by the director of natural resources under sections 1520.02 and 1520.03 of the Revised Code, all civil penalties assessed under section 1520.03 of the Revised Code, and any moneys appropriated to it. The fund shall be administered by the director, who shall spend moneys in the fund for the purposes of administering and enforcing this chapter ~~and section 1521.08 of the Revised Code~~. The director may spend any surplus moneys in the fund, as determined by ~~him~~ the director, for any other programs operated by the department of natural resources.

Sec. 1520.07. (A) The director of natural resources may give away or sell timber that has fallen on or been removed for maintenance reasons from canal lands.

(B) The director may give away or sell the spoils of a dredging operation conducted by the department of natural resources in waters under the control and management of the ~~division of water~~ department. Prior to giving away or selling any spoils under this division, the director shall notify the director of environmental protection of ~~his~~ that intent so that the director

of environmental protection may determine whether the spoils constitute solid wastes or hazardous waste, as those terms are defined in section 3734.01 of the Revised Code, that shall be disposed of in accordance with Chapter 3734. of the Revised Code. If the director of environmental protection does not notify the director of natural resources within thirty days after receiving notice of the gift or sale that the spoils shall be disposed of in accordance with Chapter 3734. of the Revised Code, the director of natural resources may proceed with the gift or sale.

(C) Proceeds from the sale of timber or dredge spoils under this section shall be deposited into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

Sec. 1521.01. As used in sections 1521.01 to 1521.05, 1521.13 to 1521.18, and 1521.20 to 1521.30 of the Revised Code:

(A) "Consumptive use," "diversion," "Lake Erie drainage basin," "other great lakes states and provinces," "water resources," and "waters of the state" have the same meanings as in section 1501.30 of the Revised Code.

(B) "Well" means any excavation, regardless of design or method of construction, created for any of the following purposes:

(1) Removing ground water from or recharging water into an aquifer, excluding subsurface drainage systems installed to enhance agricultural crop production or urban or suburban landscape management or to control seepage in dams, dikes, and levees;

(2) Determining the quantity, quality, level, or movement of ground water in or the stratigraphy of an aquifer, excluding borings for instrumentation in dams, dikes, levees, or highway embankments;

(3) Removing or exchanging heat from ground water, excluding horizontal trenches that are installed for water source heat pump systems.

(C) "Aquifer" means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive, store, or transmit water.

(D) "Ground water" means all water occurring in an aquifer.

(E) "Ground water stress area" means a definable geographic area in which ground water quantity is being affected by human activity or natural forces to the extent that continuous availability of supply is jeopardized by withdrawals.

(F) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes the United States, the state, any political subdivision of the state, and any department, division, board, commission, agency, or instrumentality of the United States, the state, or a political subdivision of the state.

(G) "State agency" or "agency of the state" has the same meaning as "agency" in section 111.15 of the Revised Code.

(H) "Development" means any artificial change to improved or unimproved real estate, including the construction of buildings and other structures, any substantial improvement of a structure, ~~and~~ mining, dredging, filling, grading, paving, excavating, and drilling operations, and storage of equipment or materials.

(I) "Floodplain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(J) "Floodplain management" means the implementation of an overall program of corrective and preventive measures for reducing flood damage, including the collection and dissemination of flood information, construction of flood control works, nonstructural flood damage reduction techniques, and adoption of rules, ordinances, or resolutions governing development in floodplains.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year floodplain" means that portion of a floodplain inundated by a one-hundred-year flood.

(M) "Structure" means a walled and roofed building, including, without limitation, gas or liquid storage tanks, mobile homes, and manufactured homes.

(N) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty per cent of the market value of the structure before the start of construction of the improvement. "Substantial improvement" includes repairs to structures that have incurred substantial damage regardless of the actual repair work performed. "Substantial improvement" does not include either of the following:

(1) Any project for the improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the state or local code enforcement official having jurisdiction and that are the minimum necessary to ensure safe living conditions;

(2) Any alteration of an historic structure designated or listed pursuant to federal or state law, provided that the alteration will not preclude the structure's continued listing or designation as an historic structure.

(O) "Shore structure" includes, but is not limited to: beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of water; piers; docks; jetties; wharves; marinas;

boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

(P) "Substantial damage" means damage of any origin that is sustained by a structure if the cost of restoring the structure to its condition prior to the damage would equal or exceed fifty per cent of the market value of the structure before the damage occurred.

(Q) "National flood insurance program" means the national flood insurance program established in the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C. 4001, as amended, and regulations adopted under it.

(R) "Conservancy district" means a conservancy district established under Chapter 6101. of the Revised Code.

~~(Q)~~(S) "Park board" means the board of park commissioners of a park district created under Chapter 1545. of the Revised Code.

~~(R)~~(T) "Erosion control structure" means anything that is designed primarily to reduce or control erosion of the shore along or near lake erie, including, but not limited to, revetments, seawalls, bulkheads, certain breakwaters designated by the chief, and similar structures. "Erosion control structure" does not include wharves, piers, docks, marinas, boat ramps, and other similar structures.

Sec. 1521.04. The chief of the division of water, with the approval of the director of natural resources, may make loans and grants from the water management fund created in section 1501.32 of the Revised Code to governmental agencies for water management, water supply improvements, and planning and may administer grants from the federal government and from other public or private sources for carrying out those functions and for the performance of any acts that may be required by the United States or by any agency or department thereof as a condition for the participation by any governmental agency in any federal financial or technical assistance program. Direct and indirect costs of administration may be paid from the ~~water management~~ fund.

The chief may use the water management fund for the purposes of administering the water diversion and consumptive use permit programs established in sections 1501.30 to 1501.35 of the Revised Code; to perform watershed and water resources studies for the purposes of water management planning; and to acquire, construct, reconstruct, improve, equip, maintain, operate, and dispose of water management improvements. The chief may fix, alter, charge, and collect rates, fees, rentals, and other

charges to be paid into the ~~water-management~~ fund by governmental agencies and persons who are supplied with water by facilities constructed or operated by the department of natural resources in order to amortize and defray the cost of the construction, maintenance, and operation of those facilities.

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; 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 either the property where~~ state plane coordinates or the latitude and longitude of 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 of water within thirty days after the completion of construction of the well on forms prescribed and prepared by the division. The log shall be kept on file by the division.

(C) Any person that seals a well shall keep a careful and accurate report of the sealing of the well. The sealing report shall show all of the following:

(1) The name of the owner of the well, the address of the location where the well was constructed, and either the state plane coordinates or the latitude and longitude of the well;

(2) The depth of the well, the size and length of its casing, and the static water level of the well;

(3) The sealing procedures, including the volume and type of sealing material or materials and the method and depth of placement of each material;

(4) The date on which the sealing was performed;

(5) The signature of the individual who sealed the well and filed the sealing report;

(6) Any other information required by the chief.

The sealing report shall be furnished to the division within thirty days after the completion of the sealing of the well on forms prescribed and prepared by the division.

(D) 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 (B) of this section 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~~ specifying additional information specified in the rules to be included in sealing reports required under division (C) of this section.

~~(C)~~(E)(1) No person shall fail to keep and submit a well log or a sealing report as required by this section.

(2) No person shall make a false statement in any well log or sealing report required to be kept and submitted under this section. Violation of division ~~(C)~~(E)(2) of this section is falsification under section 2921.13 of the Revised Code.

~~(D)~~(F) For the purposes of prosecution of a violation of division ~~(C)~~(E)(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 or sealing 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 or sealing of a well as applicable.

Sec. 1521.06. (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any ~~dike or~~ levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam, ~~dike~~, or levee issued by the chief of the division of water.

A construction permit is not required under this section for:

(1) A dam that is or will be less than ten feet in height and that has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has or will have a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is or will be six feet or less in height, as determined by the chief;

(4) A dam, ~~dike~~, or levee that belongs to a class exempted by the chief;

(5) The repair, maintenance, improvement, alteration, or removal of a dam, ~~dike~~, or levee that is subject to section 1521.062 of the Revised Code, unless the construction constitutes an enlargement or reconstruction of the structure as determined by the chief;

(6) A dam or impoundment constructed under Chapter 1513. of the Revised Code.

(B) Before a construction permit may be issued, three copies of the plans and specifications, including a detailed cost estimate, for the proposed construction, prepared by a registered professional engineer, together with the filing fee specified by this section and the bond or other security required by section 1521.061 of the Revised Code, shall be filed with the chief. The detailed estimate of the cost shall include all costs associated with the construction of the dam,~~dike~~, or levee, including supervision and inspection of the construction by a registered professional engineer. The filing fee shall be based on the detailed cost estimate for the proposed construction as filed with and approved by the chief, and shall be determined by the following schedule unless otherwise provided by rules adopted under this section:

(1) For the first one hundred thousand dollars of estimated cost, a fee of four per cent;

(2) For the next four hundred thousand dollars of estimated cost, a fee of three per cent;

(3) For the next five hundred thousand dollars of estimated cost, a fee of two per cent;

(4) For all costs in excess of one million dollars, a fee of one-half of one per cent.

In no case shall the filing fee be less than one thousand dollars or more than one hundred thousand dollars. If the actual cost exceeds the estimated cost by more than fifteen per cent, an additional filing fee shall be required equal to the fee determined by the preceding schedule less the original filing fee. All fees collected pursuant to this section, and all fines collected pursuant to section 1521.99 of the Revised Code, shall be deposited in the state treasury to the credit of the dam safety fund, which is hereby created. Expenditures from the fund shall be made by the chief for the purpose of administering this section and sections 1521.061 and 1521.062 of the Revised Code.

(C) The chief shall, within thirty days from the date of the receipt of the application, fee, and bond or other security, issue or deny a construction permit for the construction or may issue a construction permit conditioned upon the making of such changes in the plans and specifications for the construction as the chief considers advisable if the chief determines that the construction of the proposed dam,~~dike~~, or levee, in accordance with the plans and specifications filed, would endanger life, health, or property.

(D) The chief may deny a construction permit after finding that a dam,~~dike~~, or levee built in accordance with the plans and specifications would endanger life, health, or property, because of improper or inadequate design,

or for such other reasons as the chief may determine.

In the event the chief denies a permit for the construction of the dam, ~~dike~~, or levee, or issues a permit conditioned upon a making of changes in the plans or specifications for the construction, the chief shall state the reasons therefor and so notify, in writing, the person or governmental agency making the application for a permit. If the permit is denied, the chief shall return the bond or other security to the person or governmental agency making application for the permit.

The decision of the chief conditioning or denying a construction permit is subject to appeal as provided in Chapter 119. of the Revised Code. A dam, ~~dike~~, or levee built substantially at variance from the plans and specifications upon which a construction permit was issued is in violation of this section. The chief may at any time inspect any dam, ~~dike~~, or levee, or site upon which any dam, ~~dike~~, or levee is to be constructed, in order to determine whether it complies with this section.

(E) A registered professional engineer shall inspect the construction for which the permit was issued during all phases of construction and shall furnish to the chief such regular reports of the engineer's inspections as the chief may require. When the chief finds that construction has been fully completed in accordance with the terms of the permit and the plans and specifications approved by the chief, the chief shall approve the construction. When one year has elapsed after approval of the completed construction, and the chief finds that within this period no fact has become apparent to indicate that the construction was not performed in accordance with the terms of the permit and the plans and specifications approved by the chief, or that the construction as performed would endanger life, health, or property, the chief shall release the bond or other security. No bond or other security shall be released until one year after final approval by the chief, unless the dam, ~~dike~~, or levee has been modified so that it will not retain water and has been approved as nonhazardous after determination by the chief that the dam, ~~dike~~, or levee as modified will not endanger life, health, or property.

(F) When inspections required by this section are not being performed, the chief shall notify the person or governmental agency to which the permit has been issued that inspections are not being performed by the registered professional engineer and that the chief will inspect the remainder of the construction. Thereafter, the chief shall inspect the construction and the cost of inspection shall be charged against the owner. Failure of the registered professional engineer to submit required inspection reports shall be deemed notice that the engineer's inspections are not being performed.

(G) The chief may order construction to cease on any dam,~~dike~~, or levee that is being built in violation of this section, and may prohibit the retention of water behind any dam,~~dike~~, or levee that has been built in violation of this section. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order or prohibition of the chief made pursuant to this section.

(H) The chief may adopt rules in accordance with Chapter 119. of the Revised Code, for the design and construction of dams,~~dikes~~, and levees for which a construction permit is required by this section or for which periodic inspection is required by section 1521.062 of the Revised Code, for establishing a filing fee schedule in lieu of the schedule established under division (B) of this section, for deposit and forfeiture of bonds and other securities required by section 1521.061 of the Revised Code, for the periodic inspection, operation, repair, improvement, alteration, or removal of all dams,~~dikes~~, and levees, as specified in section 1521.062 of the Revised Code, and for establishing classes of dams,~~dikes~~, or levees that are exempt from the requirements of ~~sections 1521.06~~ this section and section 1521.062 of the Revised Code as being of a size, purpose, or situation that does not present a substantial hazard to life, health, or property. The chief may, by rule, limit the period during which a construction permit issued under this section is valid. The rules may allow for the extension of the period during which a permit is valid upon written request, provided that the written request includes a revised construction cost estimate, and may require the payment of an additional filing fee for the requested extension. If a construction permit expires without an extension before construction is completed, the person or agency shall apply for a new permit, and shall not continue construction until the new permit is issued.

Sec. 1521.061. Except as otherwise provided in this section, a construction permit shall not be issued under section 1521.06 of the Revised Code unless the person or governmental agency applying for the permit executes and files a surety bond conditioned on completion of the dam,~~dike~~, or levee in accordance with the terms of the permit and the plans and specifications approved by the chief of the division of water, in an amount equal to fifty per cent of the estimated cost of the project.

If a permittee requests an extension of the time period during which a construction permit is valid in accordance with rules adopted under section 1521.06 of the Revised Code, the chief shall determine whether the revised construction cost estimate provided with the request exceeds the original construction cost estimate that was filed with the chief by more than

twenty-five per cent. If the revised construction cost estimate exceeds the original construction cost estimate by more than twenty-five per cent, the chief may require an additional surety bond to be filed so that the total amount of the surety bonds equals at least fifty per cent of the revised construction cost estimate.

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 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.

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

The applicant may deposit, in lieu of a bond, cash in an amount equal to the amount of the bond or United States government securities or negotiable certificates of deposit 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. Such cash or securities shall be deposited upon 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 ~~which~~ that issued any such certificate to pledge securities of the aggregate market value equal to the amount of the certificate ~~which~~ 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 of deposit.

Immediately upon a deposit of cash, securities, or certificates of deposit, 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 such deposits. An applicant making a deposit of cash, securities, or certificates of deposit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, or certificates of deposit, upon depositing with the treasurer of state cash, other United States government securities, 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, securities, or certificates of deposit withdrawn. An applicant 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 issuer thereof, the treasurer of state, at the request

of the applicant 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 issued by any bank organized or transacting business in this state, or cash as the applicant designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of ~~his~~ the person's or agency's bond, ~~he~~ the chief shall make a finding of that fact and declare the bond, cash, securities, or certificates of deposit forfeited in the amount set by rule of the chief. The chief shall thereupon certify the total forfeiture to the attorney general, who shall proceed to collect that amount.

In lieu of total forfeiture, the surety, at its option, may cause the dam, ~~dike~~, or levee to be completed as required by section 1521.06 of the Revised Code and rules of the chief, or otherwise rendered nonhazardous, or pay to the treasurer of state the cost thereof.

All moneys collected on account of forfeitures of bonds, cash, securities, and certificates of deposit under this section shall be credited to the dam safety fund created in section 1521.06 of the Revised Code. The chief shall make expenditures from the fund to complete dams, ~~dikes~~, and levees for which bonds have been forfeited or to otherwise render them nonhazardous.

Expenditures from the fund for those purposes shall 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 the contract.

A surety bond shall not be required for a permit for a dam, ~~dike~~, or levee that is to be designed and constructed by an agency of the United States government, if the agency files with the chief written assurance of the agency's financial responsibility for the structure during the one-year period following the chief's approval of the completed construction provided for under division (E) of section 1521.06 of the Revised Code.

Sec. 1521.062. (A) All dams, ~~dikes~~, and levees constructed in this state and not exempted by this section or by the chief of the division of water under section 1521.06 of the Revised Code shall be inspected periodically by the chief, except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall ensure that continued operation and use of the dam, ~~dike~~, or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief;

(4) A dam, ~~dike~~, or levee belonging to a class exempted by the chief;

(5) A dam, ~~dike~~, or levee that has been exempted in accordance with rules adopted under section 1521.064 of the Revised Code.

(B) In accordance with rules adopted under this section, the owner of a dam that is in a class of dams that is designated in the rules for inspection by registered professional engineers shall obtain the services of a registered professional engineer who has been approved by the chief to conduct the periodic inspection of dams pursuant to schedules and other standards and procedures established in the rules. The registered professional engineer shall prepare a report of the inspection in accordance with the rules and provide the inspection report to the dam owner who shall submit it to the chief. A dam that is designated under the rules for inspection by a registered professional engineer, but that is not inspected within a five-year period may be inspected by the chief at the owner's expense.

(C) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years.

(D) In the case of a dam, ~~dike~~, or levee that the chief inspects, the chief shall furnish a report of the inspection to the owner of the dam, ~~dike~~, or levee. With regard to a dam, ~~dike~~, or levee that has been inspected, either by the chief or by a registered professional engineer, and that is the subject of an inspection report prepared or received by the chief, the chief shall inform the owner of any required repairs, maintenance, investigations, and other remedial and operational measures. The chief shall order the owner to perform such repairs, maintenance, investigations, or other remedial or operational measures as the chief considers necessary to safeguard life, health, or property. The order shall permit the owner a reasonable time in which to perform the needed repairs, maintenance, investigations, or other remedial measures, and the cost thereof shall be borne by the owner. All orders of the chief are subject to appeal as provided in Chapter 119. of the

Revised Code. The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order of the chief made pursuant to this section.

(E) The owner of a dam, ~~dike~~, or levee shall monitor, maintain, and operate the structure and its appurtenances safely in accordance with state rules, terms and conditions of permits, orders, and other requirements issued pursuant to this section or section 1521.06 of the Revised Code. The owner shall fully and promptly notify the division of water and other responsible authorities of any condition that threatens the safety of the structure and shall take all necessary actions to safeguard life, health, and property.

(F) Before commencing the repair, improvement, alteration, or removal of a dam, ~~dike~~, or levee, the owner shall file an application including plans, specifications, and other required information with the division and shall secure written approval of the application by the chief. Emergency actions by the owner required to safeguard life, health, or property are exempt from this requirement. The chief may, by rule, define maintenance, repairs, or other remedial measures of a routine nature that are exempt from this requirement.

(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

(H) If the condition of any dam, ~~dike~~, or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

- (1) Lower the water level of the lake or reservoir by releasing water;
- (2) Completely drain the lake or reservoir;
- (3) Take such other measures or actions as the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam, ~~dike~~, or

levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public or private source and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in this section and section 1521.06 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the chief ~~shall~~ may adopt, and may amend or rescind, rules that do all of the following:

(1) Designate classes of dams for which dam owners must obtain the services of a registered professional engineer to periodically inspect the dams and to prepare reports of the inspections for submittal to the chief;

(2) Establish standards in accordance with which the chief must approve or disapprove registered professional engineers to inspect dams together with procedures governing the approval process;

(3) Establish schedules, standards, and procedures governing periodic inspections and standards and procedures governing the preparation and submittal of inspection reports;

(4) Establish provisions regarding the enforcement of this section and rules adopted under it.

(K) The owner of a dam or levee shall notify the chief in writing of a change in ownership of the dam or levee prior to the exchange of the property.

Sec. 1521.064. The chief of the division of water, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend and rescind, rules establishing a program under which dams, ~~dikes~~, and levees may be exempted from inspections under section 1521.062 of the Revised Code if the continued operation and use of, and any rupturing of or other structural damage to, the dams, ~~dikes~~, and levees will not constitute a hazard to life, health, or property. The rules shall establish, without limitation, all of the following:

(A) A procedure by which the owner of such a dam, ~~dike~~, or levee may apply for an exemption under this section;

(B) The standards that a dam, ~~dike~~, or levee shall meet in order to be exempted under this section;

(C) A procedure by which the chief shall periodically review the status of a dam, ~~dike~~, or levee that has been exempted under this section to determine if the exemption should be rescinded;

(D) A requirement that the owner of any dam, ~~dike~~, or levee exempted

under this section shall agree, in writing, to accept liability for any injury, death, or loss to persons or property caused by the rupturing of or other structural damage to the dam, ~~dike~~, or levee.

Sec. 1521.13. (A) Development in one-hundred-year floodplain areas shall be protected to at least the one-hundred-year flood level, and flood water conveyance shall be maintained, at a minimum, in accordance with standards established under the national flood insurance program. This division does not preclude a state agency or political subdivision from establishing flood protection standards that are more restrictive than this division.

(B) Prior to the expenditure of money for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, all state agencies and political subdivisions shall notify and consult with the division of water and shall furnish information that the division reasonably requires in order to avoid the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities.

(C) The chief of the division of water shall do all of the following:

(1) Coordinate the floodplain management activities of state agencies and political subdivisions with the floodplain management activities of the United States, including the national flood insurance program ~~established in the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and regulations adopted under that act;~~

(2) Collect, prepare, and maintain technical data and information on floods and floodplain management and make the data and information available to the public, state agencies, political subdivisions, and agencies of the United States;

(3) Cooperate and enter into agreements with persons for the preparation of studies and reports on floods and floodplain management;

(4) Assist any county, municipal corporation, or state agency in developing comprehensive floodplain management programs;

(5) Provide technical assistance to any county, municipal corporation, or state agency through engineering assistance, data collection, preparation of model laws, training, and other activities relating to floodplain management;

(6) For the purpose of reducing damages and the threat to life, health, and property in the event of a flood, cooperate with state agencies, political subdivisions, and the United States in the development of flood warning systems, evacuation plans, and flood emergency preparedness plans;

(7) Upon request, assist the emergency management agency established by section 5502.22 of the Revised Code in the preparation of flood hazard

mitigation reports required as a condition for receiving federal disaster aid under the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, ~~"The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1994," Pub. L. No. 93-288, as amended;~~ and regulations adopted under ~~those acts~~ it;

(8) Adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for the administration, implementation, and enforcement of this section and sections 1521.14 and 1521.18 of the Revised Code;

(9) Establish, by rule, technical standards for the delineation and mapping of floodplains and for the conduct of engineering studies to determine the vertical and horizontal limits of floodplains and for the assessment of development impacts on flood heights and flood conveyance. The standards established in rules adopted under this division shall be consistent with and no more stringent than the analogous standards established under the national flood insurance program ~~adopted pursuant to the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.~~

(10) ~~Establish, by rule, flood damage reduction standards governing development within one hundred year floodplains other than development subject to the rules adopted under division (A)(11) of this section. The standards shall include provisions to ensure that structures are protected at least to the one hundred year flood level and that any increase in the one hundred year flood level will not exceed one foot as determined by engineering studies conducted in accordance with the technical standards established in rules adopted under division (A)(9) of this section. The standards adopted under this division shall be no more stringent than the minimum floodplain management criteria of the national flood insurance program adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.~~

(11) ~~Establish, by rule, minimum flood damage reduction standards governing development undertaken by state agencies within one hundred year floodplains. The standards shall include provisions to ensure that structures are protected at least to the one hundred year flood level and that any increase in the one hundred year flood level will not exceed one foot as determined by engineering studies conducted in accordance with the technical standards established in rules adopted under division (A)(9) of this section. The standards adopted under this division shall be consistent with and no less stringent than the minimum floodplain management criteria of the national flood insurance program adopted under the "National Flood~~

~~Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.~~

~~(12) On behalf of the director of natural resources, administer section 1506.04 of the Revised Code.~~

~~(B) Rules adopted under division (A)(10) of this section and standards established under those rules apply only to developments for which a demonstration of compliance is required under division (C)(1) of section 1521.14 of the Revised Code~~

In addition to the duties imposed in divisions (C)(1) to (10) of this section, and with respect to existing publicly owned facilities that have suffered flood damage or that may be subject to flood damage, the chief may conspicuously mark past and probable flood heights in order to assist in creating public awareness of and knowledge about flood hazards.

(D)(1) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with division (A) of this section and with rules adopted under division (C)(9) of this section.

(2) State agencies shall apply floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one-hundred-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with division (A) of this section, rules adopted under division (C)(9) of this section, and any applicable local floodplain management resolution or ordinance.

(4) Prior to the disbursement of any state disaster assistance money in connection with any incident of flooding to or within a county or municipal corporation that is not listed by the chief as being in compliance under division (D)(1) of section 1521.18 of the Revised Code, a state agency that has authority to disburse such money shall require the county or municipal corporation to establish or reestablish compliance as provided in that division.

(E)(1) Subject to section 1521.18 of the Revised Code, a county or a municipal corporation may do all of the following:

(a) Adopt floodplain maps that reflect the best available data and that indicate the areas to be regulated under a floodplain management resolution or ordinance, as applicable;

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable;

(c) Adopt floodplain management standards that exceed the standards

that are established under the national flood insurance program.

(2) A county or municipal corporation shall examine and apply, where economically feasible, floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) A county that adopts a floodplain management resolution shall do so in accordance with the procedures established in section 307.37 of the Revised Code. The county may enforce the resolution by issuing stop work orders, seeking injunctive relief, or pursuing other civil actions that the county considers necessary to ensure compliance with the resolution. In addition, failure to comply with the floodplain management resolution constitutes a violation of division (D) of section 307.37 of the Revised Code.

(4) No action challenging the validity of a floodplain management resolution adopted by a county or a floodplain management ordinance adopted by a municipal corporation, or an amendment to such a resolution or ordinance, because of a procedural error in the adoption of the resolution, ordinance, or amendment shall be brought more than two years after the adoption of the resolution, ordinance, or amendment.

~~Sec. 1521.14. (A) All state agencies and political subdivisions, prior to the expenditure of funds for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, shall notify and consult with the division of water and shall furnish such information as the division may reasonably require in order to avoid the uneconomic, hazardous, or unnecessary use of floodplains in connection with such facilities.~~

~~(B) With respect to existing publicly owned facilities that have suffered flood damage or that may be subject to flood damage, the chief of the division of water may conspicuously mark past and probable flood heights so as to assist in creating public awareness of and knowledge about flood hazards. Wherever economically feasible, state agencies and political subdivisions responsible for existing publicly owned facilities shall apply floodproofing measures in order to reduce potential flood damage.~~

~~(C)(1) Any state agency that funds or finances developments or that has regulatory jurisdiction that preempts the authority of political subdivisions to regulate development as necessary to establish participation in the national flood insurance program under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one hundred year~~

~~floodplain, shall require the applicant therefor to demonstrate to the satisfaction of the agency that the development will comply with the flood damage reduction standards established in rules adopted under division (A)(10) of section 1521.13 of the Revised Code.~~

~~(2) Any state agency that undertakes any development that is or is to be located within a one hundred year floodplain shall ensure that the development complies with the minimum flood damage reduction standards established in rules adopted under division (A)(11) of section 1521.13 of the Revised Code.~~

~~(3) Prior to the disbursement of any state disaster assistance funds in connection with any incident of flooding to or within a municipal corporation or county that is not listed by the chief as being in compliance under division (D)(1) of section 1521.18 of the Revised Code, each state agency having the authority to disburse such funds shall require the municipal corporation or county to establish or reestablish compliance as provided in that division.~~

~~(D) All state agencies shall comply with this section, rules adopted under section 1521.13 of the Revised Code, and any applicable local floodplain management ordinance or resolution. Upon the written request of the director of natural resources, the attorney general may shall bring a civil an action for injunctive appropriate relief; in the a court of common pleas of Franklin county, competent jurisdiction against any state agency that violates this section, rules adopted under section 1521.13 of the Revised Code, or any applicable local floodplain management ordinance or resolution. In the action, the court may enter an order that restrains, prevents, or abates any conduct, or abates any development undertaken by a state agency, in violation of this section, rules adopted under section 1521.13 of the Revised Code, or any applicable local floodplain management ordinance or resolution development that is not in compliance with the standards of the national flood insurance program and that is one of the following:~~

~~(A) Located in a county or municipal corporation that is not listed by the chief of the division of water as being in compliance under division (D)(1) of section 1521.18 of the Revised Code;~~

~~(B) Funded, financed, undertaken, or preempted by a state agency.~~

Sec. 1521.18. (A) For the purposes of this section, a one-hundred-year floodplain is limited to an area identified as a one-hundred-year floodplain in accordance with the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended.

(B) Each municipal corporation or county that has within its boundaries

a one-hundred-year floodplain and that adopts a floodplain management ordinance or resolution or any amendments to such an ordinance or resolution on or after April 11, 1991, after adopting the ordinance, resolution, or amendments and before submitting the ordinance, resolution, or amendments to the federal emergency management agency for final approval for compliance with applicable standards adopted under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, shall submit the ordinance, resolution, or amendments to the chief of the division of water for ~~his~~ the chief's review for compliance with those standards. Within forty-five days after receiving any such ordinance, resolution, or amendments, the chief shall complete ~~his~~ the review and notify the municipal corporation or county as to whether the ordinance, resolution, or amendments comply with those standards. If the chief finds that the ordinance, resolution, or amendments comply with those standards, ~~he~~ the chief shall forward it or them to the federal emergency management agency for final approval.

(C)(1) If the chief determines that a county or municipal corporation that has adopted a floodplain management resolution or ordinance fails to administer or enforce the resolution or ordinance, the chief shall send a written notice by certified mail to the board of county commissioners of the county or the chief executive officer of the municipal corporation stating the nature of the noncompliance.

(2) In order to maintain its compliance status in accordance with division (D) of this section, a county or municipal corporation that has received a notice of noncompliance under division (C)(1) of this section may submit information to the chief not later than thirty days after receiving the notice that demonstrates compliance or indicates the actions that the county or municipal corporation is taking to administer or enforce the resolution or ordinance. The chief shall review the information and shall issue a final determination by certified mail to the county or municipal corporation of the compliance or noncompliance status of the county or municipal corporation. If the chief issues a final determination of noncompliance, ~~he~~ the chief shall send a copy of that determination to the federal emergency management agency concurrently with mailing the notice to the municipal corporation or county.

(D)(1) A county or municipal corporation is considered to be in compliance for the purposes of this section if either of the following applies:

(a) The county or municipal corporation has adopted a floodplain management resolution or ordinance that the chief has determined complies with applicable standards adopted under the "National Flood Insurance Act

of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended, and is adequately administering and enforcing it as determined under division (C) of this section.

(b) The county or municipal corporation is participating in the national flood insurance program ~~under the "National Flood Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as amended,~~ and has not received a notice of noncompliance under division (B) or (C) of this section.

(2) The chief shall maintain a list of all counties and municipal corporations that have one-hundred-year floodplains within their boundaries. The list shall indicate whether each such county or municipal corporation is in compliance or noncompliance as provided in division (D)(1) of this section and whether each such county or municipal corporation is participating in the national flood insurance program. The chief shall provide a copy of the list to the general assembly and all state agencies annually and shall notify the general assembly and the agencies of any changes at least quarterly.

(E) Any county or municipal corporation that is adversely affected by any determination of the chief under this section may appeal it in accordance with Chapter 119. of the Revised Code not later than thirty days after the final determination.

Sec. 1521.19. (A) There is hereby created the Ohio water resources council consisting of the directors of agriculture, development, environmental protection, health, natural resources, transportation, and the Ohio public works commission, the chairperson of the public utilities commission of Ohio, the executive ~~directors~~ director of the state and local ~~government commission of Ohio and~~ the Ohio water development authority, and an executive assistant in the office of the governor appointed by the governor. The governor shall appoint one of the members of the council to serve as its chairperson. The council may adopt bylaws that are necessary for the implementation of this section. The council shall provide a forum for policy development, collaboration and coordination among state agencies, and strategic direction with respect to state water resource programs. The council shall be assisted in its functions by a state agency coordinating group and an advisory group as provided in this section.

(B) The state agency coordinating group shall consist of the executive director of the Ohio Lake Erie commission and a member or members from each state agency, commission, and authority represented on the council, to be appointed by the applicable director, chairperson, or executive director. However, the environmental protection agency shall be represented on the group by the chiefs of the divisions within that agency having responsibility

for surface water programs and drinking and ground water programs, and the department of natural resources shall be represented on the group by the chief of the division of water and the chief of the division of soil and water conservation. The chairperson of the council shall appoint a leader of the state agency coordinating group. The group shall provide assistance to and perform duties on behalf of the council as directed by the council.

(C) The advisory group shall consist of not more than ~~twenty~~ twenty-four members, each representing an organization or entity with an interest in water resource issues. The council shall appoint the members of the advisory group. Of the initial appointments, not more than ten members shall be appointed for one-year terms, and not more than ten members shall be appointed for two-year terms. Of the four initial appointments made after the effective date of this amendment, two of the members shall be appointed for one-year terms, and two of the members shall be appointed for two-year terms. Thereafter, all advisory group members shall serve two-year terms. Members may be reappointed. Each member shall hold office from the date of the member's appointment until the end of the member's term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The council may remove a member for misfeasance, nonfeasance, or malfeasance in office. The council shall appoint members to fill any vacancies on the group. A member appointed to fill a vacancy shall hold office for the remainder of the term for which that member was appointed.

The chairperson of the council shall appoint a chairperson of the advisory group. The advisory group shall advise the council on water resources issues addressed by the council.

(D) There is hereby created in the state treasury the Ohio water resources council fund. The department of natural resources shall serve as the fiscal agent for the fund. The departments of agriculture, development, environmental protection, health, natural resources, and transportation shall transfer moneys to the fund in equal amounts via intrastate transfer voucher. The public utilities commission of Ohio, Ohio public works commission, ~~state and local government commission of Ohio,~~ and Ohio water development authority may transfer moneys to the fund. If a voluntary transfer of moneys is made to the fund, the portion that is required to be transferred by the departments of agriculture, development, environmental protection, health, natural resources, and transportation may be equally reduced. Moneys in the fund shall be used to pay the operating expenses of the Ohio water resources council, including those specified in division (E)

of this section.

(E) The Ohio water resources council may hire staff to support its activities. The council may enter into contracts and agreements with federal agencies, state agencies, political subdivisions, and private entities to assist in accomplishing its objectives. Advisory group members shall be reimbursed for expenses necessarily incurred in the performance of their duties pursuant to section 126.31 of the Revised Code and any applicable rules pertaining to travel reimbursement adopted by the office of budget and management.

Sec. 1521.99. (A) Whoever violates division ~~(C)~~(E)(1) of section 1521.05 or division (E)(1) of section 1521.16 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section 1521.06 or 1521.062 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

(C) Whoever violates sections 1521.20 to 1521.30 of the Revised Code shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation constitutes a separate offense.

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~~ a person as defined in section 1.59 of the Revised Code or a company; an employee, agent, or officer of such a person or company; a combination of individuals; the state; a political subdivision of the state; an interstate body created by a compact; or the federal government or a department, agency, or instrumentality of it.

(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 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 or migratory game birds.

(U) "Wild quadrupeds" includes game quadrupeds and fur-bearing animals.

(V) "Game quadrupeds" includes 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 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 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 (*Carpoides cyprinus*), smelt (*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other than buffalo and quillback (*Carpoides* 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) "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.

(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.

(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 (*Hemidactylium 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 (*Odocoileus 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.

(AAA) "Migratory game bird" includes waterfowl (*Anatidae*); doves (*Columbidae*); cranes (*Gruidae*); cormorants (*Phalacrocoracidae*); rails, coots, and gallinules (*Rallidae*); and woodcock and snipe (*Scolopacidae*).

(BBB) "Accompany" means to go along with another person while staying within a distance from the person that enables uninterrupted, unaided visual and auditory communication.

Sec. 1531.02. The ownership of and the title to all wild animals in this state, not legally confined or held by private ownership legally acquired, is in the state, which holds such title in trust for the benefit of all the people. Individual possession shall be obtained only in accordance with the Revised Code or division rules. No person at any time of the year shall take in any manner or possess any number or quantity of wild animals, except wild animals that the Revised Code or division rules permit to be taken, hunted, killed, or had in possession, and only at the time and place and in the manner that the Revised Code or division rules prescribe. No person shall buy, sell, or offer any part of wild animals for sale, or transport any part of wild animals, except as permitted by the Revised Code or division rules. No person shall possess or transport a wild animal that has been taken or possessed unlawfully outside the state.

A person doing anything prohibited or neglecting to do anything required by this chapter or Chapter 1533. of the Revised Code or contrary to

any division rule violates this section. A person who counsels, aids, shields, or harbors an offender under ~~such~~ those chapters or any division rule, or who knowingly shares in the proceeds of such a violation, or receives or possesses any wild animal in violation of the Revised Code or division rule, violates this section. ~~No person shall use a rifle, at any time, in taking migratory game birds.~~

Sec. 1531.04. The division of wildlife, at the direction of the chief of the division, shall do all of the following:

(A) Plan, develop, and institute programs and policies based on the best available information, including biological information derived from professionally accepted practices in wildlife and fisheries management, with the approval of the director of natural resources;

(B) Have and take the general care, protection, and supervision of the wildlife in the state parks known as Lake St. Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, Guilford Lake, such part of Pymatuning reservoir as lies in this state, and all other state parks and lands owned by the state or in which it is interested or may acquire or become interested, except lands and lakes the care and supervision of which are vested in some other officer, body, board, association, or organization;

(C) Enforce by proper legal action or proceeding the laws of the state and division rules for the protection, preservation, propagation, and management of wild animals and sanctuaries and refuges for the propagation of those wild animals, and adopt and carry into effect such measures as it considers necessary in the performance of its duties;

(D) Promote, educate, and inform the citizens of the state about conservation and the values of fishing, hunting, and trapping, with the approval of the director.

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 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 of the division of wildlife 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, spoilation, 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 on it buildings or structures 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 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 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) of this section shall be paid into the state treasury to the credit of a fund 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.

(M) Information contained in the wildlife diversity database that is established pursuant to division (B)(2) of this section and section 1531.25 of the Revised Code may be made available to any individual or public or private agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1531.25 of the Revised Code and of features that are included in the wildlife diversity database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or feature.

Sec. 1531.10. In accordance with Chapter 119. of the Revised Code, the chief of the division of wildlife shall adopt, and may amend and rescind, rules that are necessary for the administration and enforcement of this chapter and Chapter 1533. of the Revised Code. Each such rule ~~shall be filed with the clerk of the court of common pleas of each county where the rule is effective and~~ shall be given ~~such additional~~ publicity by advertising or otherwise as the chief considers necessary or expedient. As long as a rule of the division of wildlife remains in effect, a copy of it shall be included and printed in any authorized compilation of the division lawbook. All such rules shall be under the seal of the division and shall bear the signature, or a facsimile thereof, of the chief.

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~~ initiate, within ~~five~~ thirty 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~~ initiated, 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~~ initiated 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 the owner or user is known, or by leaving a copy thereof at 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 the owner's or user's address is known, a copy of the summons shall be mailed to 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 A proceeding for the forfeiture of seized property that is initiated under this section shall not progress to actual forfeiture of the seized property unless so ordered by the court. The court may order the actual forfeiture of the seized property as part of the sentence that it imposes if the owner or person unlawfully using the property at the time of its seizure is arrested convicted, pleads guilty, and or confesses that the property at the time of its seizure was being used by 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. Forfeited property so seized forfeited to shall be the property of 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. 1531.27. The chief of the division of wildlife shall pay to the treasurers of the several counties wherein lands owned by the state and administered by the division are located an annual amount determined in the following manner: in each such county one per cent of the total value of such lands exclusive of improvements, as shown on the auditor's records of taxable value of real property existing at the time when the state acquired the tract or tracts comprising the lands.

The payments shall be made from funds accruing to the division ~~from the sale of hunting or fishing licenses and~~ from fines, penalties, restitution,

and forfeitures deposited into the state treasury to the credit of the wildlife fund created in section 1531.17 of the Revised Code. The allocation of amounts to be paid from those sources shall be determined by the director of natural resources.

The payments to the treasurers of the several counties shall be credited to the fund for school purposes within the school districts wherein the lands are located.

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 buying, 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 or more 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, buying, selling, 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, bought, sold, 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. 1533.07. No person shall catch, kill, injure, pursue, or have in the person's possession, either dead or alive, or purchase, expose for sale, transport, or ship to a point within or without the state, or receive or deliver for transportation any bird other than a game bird, or have in the person's possession any part of the plumage, skin, or body of any bird other than a game bird, except as permitted in Chapter 1531. and this chapter of the Revised Code, or disturb or destroy the eggs, nest, or young of such a bird.

This section does not prohibit the lawful taking, killing, pursuing, or possession of any game bird during the open season for the bird. ~~Hawks or owls causing damage to domestic animals or fowl may be killed by the owner of the domestic animal or fowl while the damage is occurring.~~ Bald or golden eagles and ospreys shall not be killed or possessed at any time, except that eagles or ospreys may be possessed for educational purposes by governmental or municipal zoological parks, museums, and scientific or educational institutions. European starlings, English sparrows, and common pigeons, other than homing pigeons, may be killed at any time and their nests or eggs may be destroyed; at any time. Blackbirds may be killed at any time when doing damage to grain or other property or when they become a nuisance.

Each bird or any part thereof taken or had in possession contrary to this section constitutes a separate offense.

Sec. 1533.08. Except as otherwise provided by division rule, any person desiring to collect or possess wild animals that are protected by law or their nests or eggs for scientific study, school instruction, other educational uses, or rehabilitation shall make an annual application to the chief of the division of wildlife for a wild animal ~~collecting~~ permit on a form furnished by the chief. Each applicant for a wild animal ~~collecting~~ permit, other than an applicant desiring to rehabilitate wild animals, shall pay an annual fee of twenty-five 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~~ The chief shall ~~may~~ issue to the applicant a permit to take, possess, and transport at any time and in ~~any~~ a manner that is acceptable to the chief 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 those wild animals in accordance with the permit.

Each holder of a permit engaged in collecting or who possesses such wild animals shall carry the permit at all times and shall exhibit it upon demand to any ~~wildlife officer, constable, sheriff, deputy sheriff, or police peace officer, as defined in section 2935.01 of the Revised Code, or to the~~ owner or person in lawful control of the land upon which the permit holder is collecting; ~~or to any other person possesses the wild animals.~~ 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 or possessed 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. 1533.09. Before the ~~first~~ fifteenth day of ~~February~~ March of each year, each wild animal ~~collecting~~ permit holder shall file with the division of wildlife a written report of ~~his~~ the permit holder's operations under the permit and the disposition of the specimens collected or possessed during the preceding calendar year on report blanks furnished by the chief of the division. Failure to file a report shall cause the permit to be forfeited as of the ~~first~~ fifteenth day of ~~February~~ March. Permits are not transferable. No permit holder or person collecting or possessing wild animals under authority of such a permit shall take, possess, or transport the wild animals for any purpose not specified in the permit.

Conviction of a violation of this section, failure to carry a permit and exhibit it to any person requesting to see it as provided in section 1533.08 of the Revised Code, or the violation of any other law concerning wild animals constitutes a revocation and forfeiture of the permit involved. The former permit holder shall not be entitled to another permit for a period of one year from the date of the conviction.

Sec. 1533.10. Except as provided in this section or division (A)(2) 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. Except as otherwise provided in this section, every applicant for a hunting license who is a resident of the state and eighteen years of age or more shall procure a resident hunting license or an apprentice resident hunting license, the fee for which shall be eighteen 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. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior hunting license, the fee for which shall be one-half of the regular hunting license fee. Every applicant who is under the age of eighteen years shall procure a special youth hunting license or an apprentice 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 and children of the tenant, residing on lands in the state, may hunt on them without a hunting license. Except as otherwise provided in division (A)(1) of section 1533.12 of the Revised Code, every applicant for a hunting license who is a nonresident of the state and who is eighteen years of age or older shall procure a nonresident hunting license or an apprentice nonresident hunting license, the fee for which shall be one hundred twenty-four 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 eighteen dollars. Apprentice resident hunting licenses, apprentice youth hunting licenses, and apprentice nonresident hunting licenses are subject to the requirements established under section 1533.102 of the Revised Code and rules adopted pursuant to it.

The chief of the division of wildlife may issue a 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 thirty-nine dollars. No person shall take or possess deer, wild turkeys, fur-bearing animals, ducks, geese, brant, or any nongame animal while possessing only a small game hunting license. A small game hunting license or an apprentice nonresident hunting license does not authorize the taking or possessing of ducks, geese, or brant without having obtained, in addition to the small game hunting license or the apprentice nonresident hunting license, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code. A small game hunting license or an apprentice nonresident 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, an apprentice nonresident hunting license, a special youth hunting license, or an apprentice youth hunting license, as applicable, 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, other than an apprentice 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. A previously held apprentice hunting license does not satisfy the requirement concerning the presentation of a previously held hunting license or evidence of it.

No person shall issue a hunting license, except an apprentice hunting license, to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license, other than an apprentice 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, other than buyers of apprentice hunting licenses, 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. 1533.11. (A) Except as provided in this section, no person shall hunt deer on lands of another without first obtaining an annual ~~special~~ deer permit. Except as provided in this section, no person shall hunt wild turkeys on lands of another without first obtaining an annual ~~special~~ wild turkey permit. Each applicant for a ~~special~~ deer or wild turkey permit shall pay an annual fee of twenty-three dollars for each permit unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a deer or wild turkey permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a ~~special~~ senior deer or wild turkey permit, the fee for which shall be one-half of the regular ~~special~~ deer or wild turkey permit fee. Each applicant who is under the age of eighteen years shall procure a ~~special~~ youth deer or wild turkey permit, the fee for which shall be one-half of the regular ~~special~~ deer or wild turkey permit fee. Except as provided in division (A)(2) of section 1533.12 of the Revised Code, a deer or wild turkey permit shall run concurrently with the hunting license. The money received shall be paid into the state treasury to the credit of the wildlife fund, created in section 1531.17 of the Revised Code, exclusively for the use of the division of wildlife in the acquisition and development of land for deer or wild turkey management, for investigating deer or wild turkey problems, and for the stocking, management, and protection of deer or wild turkey. Every person, while hunting deer or wild turkey on lands of another, shall carry the person's ~~special~~ deer or wild turkey permit and exhibit it to any enforcement officer so requesting. Failure to so carry and exhibit such a permit constitutes an offense under this section. The chief of the division of wildlife shall adopt any additional rules the chief considers necessary to carry out this section and section 1533.10 of the Revised Code.

The owner and the children of the owner of lands in this state may hunt deer or wild turkey thereon without a ~~special~~ deer or wild turkey permit. The tenant and children of the tenant may hunt deer or wild turkey on lands where they reside without a ~~special~~ deer or wild turkey permit.

(B) A ~~special~~ deer or wild turkey permit is not transferable. No person shall carry a ~~special~~ deer or wild turkey permit issued in the name of another person.

(C) The wildlife refunds fund is hereby created in the state treasury. The fund shall consist of money received from application fees for ~~special~~ deer permits that are not issued. Money in the fund shall be used to make refunds

of such application fees.

Sec. 1533.12. (A)(1) Except as otherwise provided in division (A)(2) of this section, every person on active duty in the armed forces of the United States who is stationed in this state and who wishes to engage in an activity for which a license, permit, or stamp is required under this chapter first shall obtain the requisite license, permit, or stamp. Such a person is eligible to obtain a resident hunting or fishing license regardless of whether the person qualifies as a resident of this state. To obtain a resident hunting or fishing license, the person shall present a card or other evidence identifying the person as being on active duty in the armed forces of the United States and as being stationed in this state.

(2) 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 the person when fishing, hunting, or trapping, a card or other evidence identifying the person as 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 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~~ a 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 on an annual, multi-year, or lifetime basis as determined appropriate by the chief 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 was born on or before December 31, 1937, 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 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 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 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~~ a fishing license, hunting license, fur taker permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge on an annual, multi-year, or lifetime basis as determined appropriate by the chief 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. 1533.131. The chief of the division of wildlife may sell gift certificates that may be used to obtain hunting and fishing licenses, fur taker, ~~special~~ deer, and ~~special~~ wild turkey permits, and wetlands habitat

stamps. For the purposes of this section, the chief shall adopt rules in accordance with section 1531.10 of the Revised Code doing all of the following:

(A) Providing that a gift certificate may be used to obtain a resident or nonresident hunting license under section 1533.10 of the Revised Code, a resident or nonresident fishing license under section 1533.32 of the Revised Code, a fur taker permit under section 1533.111 of the Revised Code, a ~~special~~ deer or wild turkey permit under section 1533.11 of the Revised Code, a wetlands habitat stamp under section 1533.112 of the Revised Code, or a combination of those licenses, permits, and stamps;

(B) Prescribing the form for the gift certificates;

(C) Authorizing persons who are designated and authorized under section 1533.13 of the Revised Code to sell licenses and permits under this chapter also to sell gift certificates under this section;

(D) Establishing fees for the gift certificates, which shall equal the total of the fee for a resident or nonresident hunting license, a resident or nonresident fishing license, a fur taker permit, a ~~special~~ deer or wild turkey permit, a wetlands habitat stamp, or a combination of those licenses, permits, and ~~stamps~~ stamp, as applicable, and the fee established under section 1533.13 of the Revised Code;

(E) Requiring gift certificates to expire one year after the date of purchase.

Nothing in this section or rules adopted under it relieves an individual who receives a gift certificate for a hunting license from complying with the requirement established under section 1533.10 of the Revised Code to present, when applying for 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.

Nothing in this section or rules adopted under it relieves an individual who receives a gift certificate for a fur taker permit from complying with the requirements established under section 1533.111 of the Revised Code to present, when applying for the permit, a previously held hunting license or trapping or fur taker permit or evidence of having held such a license or permit in content and manner approved by the chief, a certificate of completion issued upon completion of a trapper education course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

Sec. 1533.171. (A) No person, in the act of hunting, pursuing, taking, or

killing 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 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, 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. 1533.42. Except as otherwise provided by division rule, every licensee taking fish with commercial fishing gear, except a trotline of seventy hooks or less, in any of the waters mentioned in this chapter and Chapter 1531. ~~and this chapter~~ of the Revised Code or division rule, shall keep accurate reports for each day's catch upon forms provided, and in the

manner prescribed, by the chief of the division of wildlife.

Every commercial fishing licensee shall keep an accurate record of each day's catch as prescribed upon a monthly report form. The report shall include at least the number of pounds of each kind of fish taken, the locality fished, the kind and amount of fishing gear lifted, the number of fishing nights, the number of lifts, and any other data the biologists employed by the division of wildlife require in following the trend of the fisheries. The licensee shall report each month, under oath when requested to do so, those data to the chief.

The daily catch data shall be recorded accurately on the respective date upon a report form approved by the chief no later than twelve noon on the day following the day in which the fish were taken. The monthly report and any other report required pursuant to this section shall be submitted to the division no later than the fifteenth day of the month following the end of the calendar month in which the fish were taken.

A licensee shall contact the chief or the chief's designee when the licensee is in transit to the licensee's trap nets to lift, move, pull, remove, clean, or maintain the trap nets for any reason and also shall contact the chief or the chief's designee when returning to land with a daily catch of fish from a trap net indicating the licensee's estimated time of arrival at a specific port and any other information required by the chief. The licensee shall contact the chief or the chief's designee by using a cellular telephone, radio, or other communication device in a manner prescribed by the chief.

No person shall fail to comply with any report procedure provided for in this section, other provisions of this section, or division rule adopted pursuant thereto.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of sixty fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of eighteen fishing season months immediately following that conviction.

During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.

Sec. 1533.632. (A) As used in this section:

(1) "Aquaculture" means a form of agriculture that involves the propagation and rearing of aquatic species in controlled environments under private control, including, but not limited to, for the purpose of sale for consumption as food.

(2) "Aquaculture species" means any aquatic species that may be raised through aquaculture that is either a class A aquaculture species or a class B aquaculture species.

(3) "Class A aquaculture species" includes ~~all of the following:~~

(a) ~~Trout and salmon (Onchorhynchus sp., Salmo sp., Salvelinus sp.);~~

(b) ~~Walleye (Stizostedion vitreum);~~

(c) ~~Sauger (Stizostedion canadense);~~

(d) ~~Bluegill (Lepomis macrochirus);~~

(e) ~~Redear sunfish (Lepomis microlophus);~~

(f) ~~Green sunfish (Lepomis cyanellus);~~

(g) ~~White crappie (Pomoxis annularis);~~

(h) ~~Black crappie (Pomoxis nigromaculatus);~~

(i) ~~Blue catfish (Ictalurus furcatus);~~

(j) ~~Any species added by rule under division (B) of this section or listed as commercial fish under section 1531.01 of the Revised Code except white perch (Morone americana) any species designated as such by the chief of the division of wildlife in rules adopted under division (B) of this section.~~

(4) "Class B aquaculture species" includes any species, except for class A aquaculture species, designated as such by the chief ~~of the division of wildlife in rules adopted under division (B) of this section.~~

(5) "Aquaculture production facility" means a facility ~~used for aquaculture that has suitable infrastructure and equipment, as determined by the chief, and that is solely dedicated to the propagation and rearing of an aquaculture species.~~

(6) "Suitable infrastructure" includes ponds, raceways, and tanks.

(B) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules for the regulation of aquaculture and may issue permits to persons wishing to engage in aquaculture for the production of aquaculture species. Rules adopted under this section shall ensure the protection and preservation of the wildlife and natural resources of this state. The legal length and weight limitations established under section 1533.63 of the Revised Code do not apply to class A or class B aquaculture species.

A permit may be issued upon application to any person who satisfies the chief that the person ~~has suitable equipment, of which the person is the owner or lessee, to engage in aquaculture for a given aquaculture species or group of~~ owns or leases an aquaculture species production facility. Each

permit shall be in such form as the chief prescribes. The permits shall be classified as either class A or class B. A class A permit shall be required for all class A aquaculture species that are ~~specified in this section or~~ designated by rule as a class A aquaculture species. Class B permits shall be issued on a case-by-case basis. In determining whether to issue a class B permit, the chief shall take into account the species for which the class B permit is requested, the location of the aquaculture production facility, and any other information determined by the chief to be necessary to protect the wildlife and natural resources of this state. The annual fee for a class A permit shall be fifty dollars unless otherwise provided by rule by the chief. The annual fee for a class B permit shall be set by the chief at a level between one hundred and five hundred dollars. In determining the fee to be charged for a class B permit, the chief shall take into account the additional costs to the division for the inspection of aquaculture facilities used to raise a given class B aquaculture species.

The chief may revoke a permit upon a determination that the person to whom the permit was issued has violated any rule adopted under this section. The permit shall be reissued upon a showing by the person that the person is in compliance with the rules adopted under this section. A holder of an aquaculture permit may receive a permit issued under section 1533.301 or 1533.40 of the Revised Code without payment of the fee for that permit if the conditions for the issuance of the permit have been met.

(C) No person shall knowingly sell any aquatic species under an aquaculture permit issued under this section that was not raised in an aquaculture production facility. In addition to any other penalties prescribed for violation of this division, the chief may revoke the permit of any person convicted of a violation of this division for any period of time the chief considers necessary.

(D) No person who does not hold a current valid aquaculture permit shall knowingly sell an aquaculture species while claiming to possess an aquaculture permit.

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~~ may 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. 1533.86. As used in sections 1533.86 to 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 transplanting 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~~ 6111.01 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. 1533.882. No person shall do any of the following:

(A) Without written authorization from the chief of the division of wildlife, harvest wild ginseng except during the harvesting season as established by rule adopted pursuant to section 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;

(C) Attempt to harvest ginseng in a manner that, if harvested, would constitute a violation of division (A) or (B) of this section;

(D) Ship or otherwise transport out of state ginseng that has not been certified in accordance with rules adopted pursuant to division (B) of section 1533.88 of the Revised Code;

~~(D)~~(E) Except during the buying season as established by rule adopted pursuant to section 1533.88 of the Revised Code, buy, otherwise acquire, or sell uncertified ginseng;

~~(E)~~(F) Fail to keep records as established by rule adopted pursuant to section 1533.88 of the Revised Code;

~~(F)~~(G) Possess ginseng from another state without a certificate of legal taking issued by that state under its ginseng management program;

~~(G)~~(H) Knowingly provide incorrect or false information on or in any permit application, report, export certificate, or other document required by rules adopted pursuant to section 1533.88 of the Revised Code;

~~(H)~~(I) Violate any provision of sections 1533.86 to 1533.90 of the Revised Code or rules adopted pursuant to section 1533.88 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, 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 roads and drives in, around, upon, and to the lands and waters to make them conveniently accessible and useful to the public;

(D) Except as otherwise provided in this section, to adopt, amend, and rescind, in accordance with Chapter 119. of the Revised Code, rules necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and control, including the following:

(1) Governing opening and closing times and dates of the parks;

(2) Establishing fees and charges for use of facilities in state parks;

(3) Governing camps, camping, and fees for camps and camping;

(4) Governing the application for and rental of, rental fees for, and the use of ~~cabins~~ cottages;

(5) Relating to public use of state park lands, and governing the operation of motor vehicles, including speeds, and parking on those lands;

(6) 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 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.

The division shall adopt rules under this section establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

The division shall not adopt rules establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

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 exempt from the fees for camping, provided that the resident or veteran carries in the state park such evidence of the resident's or veteran's disability as the chief of the division of parks and recreation prescribes by rule.

Unless otherwise provided by division 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 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 weekends and holidays designated by the division, and 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 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 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. "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.

Sec. 1541.05. (A) The chief of the division of parks and recreation, with the approval of the director of natural resources, may dispose of any of the following by sale, donation, trade, trade-in, recycling, or any other lawful means, in a manner that will benefit the division:

(1) Standing timber that as a result of wind, storm, pestilence, or any other natural occurrence may present a hazard to life or property, ~~or~~ timber that has weakened or fallen on lands under the control and management of the division, or any timber that requires management to improve wildlife habitat, protect against wildfires, provide access to recreational facilities, or improve the safety, quality, or appearance of any state park area;

(2) Spoils of a dredging operation conducted by the division in waters under the control and management of the division. Prior to the disposition of any spoils under this division, the chief shall notify the director of environmental protection of ~~his~~ the chief's intent so that the director may determine if the spoils constitute solid wastes or hazardous waste, as those terms are defined in section 3734.01 of the Revised Code, that ~~shall~~ must be disposed of in accordance with Chapter 3734. of the Revised Code. If the director does not notify the chief within thirty days after receiving notice of the disposition that the spoils ~~shall~~ must be disposed of in accordance with Chapter 3734. of the Revised Code, the chief may proceed with the disposition.

(3) Notwithstanding sections 125.12 to 125.14 of the Revised Code, excess supplies and surplus supplies, as those terms are defined in section 125.12 of the Revised Code;

(4) Agricultural products that are grown or raised by the division. As used in this division, "agricultural products" includes products of apiculture, animal husbandry, or poultry husbandry, field crops, fruits, and vegetables.

(5) Abandoned personal property, including golf balls that are found on property under the control and management of the division.

(B) In accordance with Chapter 119. of the Revised Code, the chief shall adopt, and may amend and rescind, such rules as are necessary to administer this section.

(C) Proceeds from the disposition of items under this section shall be deposited in the state treasury to the credit of the state park fund created in section 1541.22 of the Revised Code.

Sec. 1541.40. There is hereby created in the division of parks and recreation an Ohio parks and recreation council, which shall consist of seven members to be appointed by the governor with the advice and consent of the

senate. By reason of ~~his~~ vocation, employment, or affiliation one of ~~such~~ the members shall be classed as a representative of municipal parks, one as a representative of metropolitan park districts, one as a representative of conservancy districts, one as a representative of ~~soil conservation districts or~~ of soil and water conservation districts, one as a representative of private recreational facilities, and two as representatives of the public.

Terms of office shall be for ~~two~~ three years, commencing on the first day of February and ending on the thirty-first day of January, ~~except that upon expiration of the terms ending on February 3, 1973, the new terms which succeed them shall commence on February 4, 1974 and end on January 31, 1976, and upon expiration of the terms ending on February 2, 1975, the new terms which succeed them shall commence on February 3, 1975 and end on January 31, 1977.~~ Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of ~~such~~ that term. Any 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 council shall annually select from among its members a ~~chairman~~ chairperson and a ~~vice-chairman~~ vice-chairperson.

Members of the council shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

The council shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the ~~chairman~~ chairperson, and shall be called by ~~him~~ the chairperson upon receipt of a written request therefor signed by two or more members of the council. A written notice of the time and place of each meeting shall be sent to each member of the council. A majority of the members of the council shall constitute a quorum.

The chief of the division of parks and recreation shall act as secretary of the council. Technical, legal, and other services required by the council in the performance of its official duties shall be furnished by the personnel of the division of parks and recreation.

The governor may remove any member of the council at any time for inefficiency, neglect of duty, or malfeasance in office.

Sec. 1547.05. No person born on or after January 1, 1982, shall operate

on the waters in this state a powercraft powered by more than ten horsepower, unless the operator successfully has completed either a safe boater course approved by the national association of state boating law administrators or a proctored or nonproctored proficiency examination that tests knowledge of information included in the curriculum of such a course, and has received a certificate as evidence of successful completion of the course or examination.

No person shall permit a powercraft to be operated 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 under any of the following circumstances:

(a) Within three hundred feet of any marina, boat docking facility, boat gasoline dock, launch ramp, recreational boat harbor, or harbor entrance on Lake Erie or on the Ohio river;

(b) 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;

(c) Within any area buoyed or marked as a no wake area on the waters in this state.

(2) Division (B)(1) of this section does not apply in either of the following places:

(a) An 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;

(b) 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 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 enter, operate a vessel that enters, or allow a vessel to enter a federally declared security zone as defined in 33 C.F.R. Chapter I, subparts 6.01-1, 6.01-2, 6.01-3, 6.01-4, 6.01-5, 6.04-1, 6.04-5, 6.04-6, 6.04-7, and 6.04-8.

(G) No person shall permit any vessel to be operated on the waters in this state in violation of this section.

Sec. 1547.51. There is hereby created within the department of natural resources the division of watercraft. The division shall administer and enforce all laws relative to the identification, numbering, registration, titling, use, and operation of vessels operated on the waters in this state and, with the approval of the director of natural resources, educate and inform the citizens of the state about, and promote, conservation, navigation, safety practices, and the benefits of recreational boating.

Sec. 1547.54. (A)(1) Except as otherwise provided in section 1547.542 of the Revised Code, 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 or by an electronic means approved 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 2131.12 of the Revised Code, by both of those persons as owners of the watercraft. The signatures may be done by electronic signature if the owners themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(b) If the watercraft is owned by a minor, by the minor and a parent or legal guardian. The signatures may be done by electronic signature if the parent or legal guardian and the minor themselves are renewing the registration and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(c) In all other cases, by the owner of the watercraft. The signature may be done by electronic signature if the owner is renewing the registration personally and there are no changes in the registration information since the issuance of the immediately preceding registration certificate. In all other instances, the signatures shall be done manually.

(2) An application for a triennial registration of a watercraft filed under division (A)(1) of this section shall be accompanied by the following fee:

(a) For canoes, rowboats, and inflatable watercraft that are numbered under section 1547.53 of the Revised Code, twelve dollars;

(b) For canoes, row boats, and inflatable watercraft that are not numbered under section 1547.53 of the Revised Code, seventeen dollars;

(c) For class A watercraft, including motorized canoes, thirty dollars;

(d) For class 1 watercraft, forty-five dollars;

(e) For class 2 watercraft, sixty dollars;

(f) For class 3 watercraft, seventy-five dollars;

(g) For class 4 watercraft, 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 (Q) of this section and for purposes of all other sections in this chapter.

(B) All registration certificates issued under this section 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)(1) Upon receipt of the application in approved form, the chief shall enter the same upon the records of the office of the division of watercraft, 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 and except as otherwise provided in division (D)(2) of this section.

(2) A person who is operating on the waters of this state a canoe, rowboat, or inflatable watercraft that has not been numbered under section 1547.53 of the Revised Code and who is stopped by a law enforcement officer in the enforcement of this chapter or rules adopted under it shall present to the officer, not later than seventy-two hours after being stopped, a registration certificate. The registration certificate shall have been obtained under this section for the canoe, rowboat, or inflatable watercraft prior to the time that it was stopped. Failure of the person to present the registration certificate within seventy-two hours constitutes prima-facie evidence of a violation of this section.

(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 manually by the person or persons specified in ~~division~~ divisions (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)(1) The chief may assign any registration certificates to any authorized agent for the assignment of the registration certificates. If a person accepts that authorization, the person may be assigned a block of numbers and certificates 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.

(2) A clerk of the court of common pleas may apply for designation as an authorized agent of the chief. The division shall accept the clerk's bond that is required under section 2303.02 of the Revised Code for any security that is required for agents under this division, provided that the bond includes a rider or other provision specifically covering the clerk's duties as an authorized agent of 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 2131.12 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~~ As a

part of the notification, the owner 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 on the certificate by the agent. Certificates issued with incorrect dates of issue are void from the time they are issued.

(N) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the renewal of watercraft registrations by electronic means.

(O) 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.

(P) 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 (O)(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 (O)(2) of this section.

(Q) 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 (P) 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. 1547.541. The owner of a ~~wooden~~ watercraft that is more than twenty-five years old, is essentially as originally constructed, and is owned primarily as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but is not used for general recreation may apply to the chief of the division of watercraft for an historic watercraft identification plate. The chief, by rule, may establish additional criteria for the registration of historic watercraft that the chief considers necessary.

The chief shall prescribe the form of application and shall issue an historic watercraft identification plate, which shall be securely affixed to the watercraft. The plate shall bear no date, but shall bear the inscription "historic watercraft." A registration number assigned by the chief shall be shown on the plate. The plate is valid without renewal as long as the watercraft exists and ownership does not change. The fee for the plate is twenty-five dollars.

Whenever the ownership of an historic watercraft changes, an application for transfer of registration, together with a fee of ten dollars, shall be filed with the division of watercraft, and a new certificate of registration shall be issued.

The historic watercraft identification plate shall be shown on the watercraft in the same manner as a number required under sections 1547.53 and 1547.57 of the Revised Code.

If the watercraft is to be used for general recreation, it also shall be registered as required by section 1547.54 of the Revised Code.

Sec. 1547.99. (A) Whoever violates section 1547.91 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates division (F) of section 1547.08, section 1547.10, division (I) of section 1547.111, section 1547.13, or section 1547.66 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates a provision of this chapter or a rule adopted thereunder, for which no penalty is otherwise provided, is guilty of a minor misdemeanor.

(D) Whoever violates section 1547.07 or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07 or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (M) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of

any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, or a combination of them, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, of division (A)(1) of section 2903.06 of the Revised Code, or of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or section 2903.06 or 2903.07 of the Revised Code as they existed prior to March 23, 2000, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them, the court shall sentence the offender to a jail term of ten consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation identified in division (G)(2) of this section, the court shall sentence the offender to a jail term of thirty

consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (G)(1), (2), or (3) of this section to continue the offender's employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. No court shall authorize work release during the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. The duration of the work release shall not exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of ten or thirty consecutive days required to be imposed by division (G)(2) or (3) of this section or place an offender who is sentenced pursuant to division (G)(2) or (3) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of ten or thirty consecutive days required to be imposed pursuant to division (G)(2) or (3) of this section. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (G)(1) of this section, shall suspend the mandatory jail term of three consecutive days required to be imposed by division (G)(1) of this section or place an offender who is sentenced pursuant to division (G)(1) of this section in any treatment program in lieu of imprisonment until after the offender has served the mandatory jail term of three consecutive days required to be imposed pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section, "jail term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is guilty of a misdemeanor of the fourth degree and also shall be assessed any costs incurred by the state or a county, township, municipal corporation, or other political subdivision in disposing of an abandoned junk vessel or outboard motor, less any money accruing to the state, county, township, municipal corporation, or other political subdivision from that disposal.

(I) Whoever violates division (B) or (C) of section 1547.49 of the Revised Code is guilty of a minor misdemeanor.

(J) Whoever violates section 1547.31 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent offense, the person is guilty of a misdemeanor of the third degree.

(K) Whoever violates section 1547.05 or 1547.051 of the Revised Code is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person, or damage to property.

(L) The sentencing court, in addition to the penalty provided under this section for a violation of this chapter or a rule adopted under it that involves a powercraft powered by more than ten horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1548.02. The chief of the division of watercraft shall adopt such rules as the chief considers necessary to ensure uniform and orderly operation of this chapter, and the clerks of the courts of common pleas shall conform to those rules. The chief shall receive and file in the chief's office all information forwarded to the chief by the clerks under this chapter and shall maintain indexes covering the state at large for that information. These indexes shall be for the state at large and not for individual counties.

The chief shall check with the chief's record all duplicate certificates of title received in the chief's office from the clerks.

If it appears that any certificate of title has been improperly issued or is no longer required, the chief shall cancel the certificate. Upon the cancellation of any certificate of title, the chief shall notify the clerk who issued it, and the clerk shall enter the cancellation in the clerk's records. The chief also shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on it, of the cancellation and, if it is a

physical certificate of title, shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on it. The holder of a physical certificate of title shall return it to the chief immediately.

The clerks shall keep on hand a sufficient supply of blank forms that, except certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers or to other persons residing within the county. The clerks shall provide the certificates of title, the ribbons for data processing, and removable backup media from moneys provided to the clerks from the automated title processing fund in accordance with division (B)(3)(b) of section 4505.09 of the Revised Code. The clerks shall furnish all other supplies from other moneys available to the clerks.

Sec. 1548.031. (A) No minor under eighteen years of age shall sell or otherwise dispose of a watercraft or outboard motor or purchase or otherwise acquire a watercraft or outboard motor unless the application for a certificate of title is accompanied by a form prescribed by the chief of the division of watercraft and signed in the presence of a clerk or deputy clerk of a court of common pleas or any notary public by one of the minor's parents, the minor's guardian, or another person having custody of the minor authorizing the sale, disposition, purchase, or acquisition of the watercraft or outboard motor. At the time the adult signs the form, the adult shall provide identification establishing that the adult is the individual whose signature appears on the form.

(B) No right, title, or claim to or interest in a watercraft or outboard motor shall be acquired by or from a minor unless the application for a certificate of title is accompanied by the form required by this section.

(C) No clerk of a court of common pleas shall be held liable in any civil action that arises under the law of this state for injury or loss to persons or property caused when a person has obtained a certificate of title in violation of this section unless the clerk failed to use reasonable diligence in ascertaining the age of the minor or the identity of the adult who signed the form authorizing the sale, disposition, purchase, or acquisition of the watercraft or outboard motor by the minor.

Sec. 1548.032. (A)(1) If a person who is not an electronic watercraft dealer owns a watercraft for which a physical certificate of title has not been issued by a clerk of a court of common pleas and the person sells the watercraft to a watercraft dealer registered under section 1547.543 of the Revised Code, the person is not required to obtain a physical certificate of title to the watercraft in order to transfer ownership to the dealer. The person

shall present the dealer, in a manner approved by the chief of the division of watercraft, with sufficient proof of the person's identity and complete and sign a form prescribed by the chief attesting to the person's identity and assigning the watercraft to the dealer. Except as otherwise provided in this section, the watercraft dealer shall present the assignment form to any clerk of a court of common pleas together with an application for a certificate of title and payment of the fees prescribed by section 1548.10 of the Revised Code.

In a case in which an electronic certificate of title has been issued and either the buyer or seller of the watercraft is an electronic watercraft dealer, the electronic watercraft dealer instead may inform a clerk of a court of common pleas via electronic means of the sale of the watercraft and assignment of ownership of the watercraft. The clerk shall enter the information relating to the assignment into the automated title processing system, and ownership of the watercraft passes to the applicant when the clerk enters this information into the system. The dealer is not required to obtain a physical certificate of title to the watercraft in the dealer's name.

(2) A clerk shall charge and collect from a dealer a fee of five dollars for each watercraft assignment sent by the dealer to the clerk under division (A)(1) of this section. The fee shall be distributed in accordance with section 1548.10 of the Revised Code.

(B) If a person who is not an electronic watercraft dealer owns a watercraft for which a physical certificate of title has not been issued by a clerk of a court of common pleas and the person sells the watercraft to a person who is not a watercraft dealer registered under section 1547.543 of the Revised Code, the person shall obtain a physical certificate of title to the watercraft in order to transfer ownership of the watercraft to that person.

Sec. 1561.011. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code.

Sec. 1563.01. Except for section 1563.11 of the Revised Code, nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code.

Sec. 1565.01. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code.

Sec. 1567.01. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code.

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or gas engine shall be used in a mine, except for operating pumping machinery where electric, compressed air, or steam power is not available or cannot be transmitted to the pump, in which case the owner, lessee, or agent shall

observe the following:

(A) Notice shall be given to the chief of the division of mineral resources management, before installing, and the installation and operation shall be subject to the chief's approval.

(B) No wood or inflammable material shall be permitted within twenty-five feet of the engine.

(C) The supply tank from which the gasoline, naphtha, kerosene, or fuel oil is fed to the engine, shall be of metal, with a suitable screw cap opening, fitted with a gasket, so as to make the tank airtight and prevent the escape of gas into the atmosphere, and the tank kept free from leaks.

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed from a tank to the carburetor or mixer by metal tubes securely connected so as to reduce the possibility of leaks to a minimum.

(E) The exhaust from the engine shall be conducted by means of metal pipes into the return air current, so that the combustion fumes will not enter the workings of the mine where the ~~worker's~~ workers are required to work, or be conducted in an upcast shaft or slope not used as a means of ingress or egress or through metal pipes to the surface.

(F) At no time shall more than five gallons of such gasoline, naphtha, kerosene, or fuel oil be taken into the mine, including that in the supply tank.

(G) No gasoline, naphtha, kerosene, or fuel oil shall be taken into the mine except in metallic cans, with a screw cap opening at the top, fitted with a suitable gasket.

(H) No package, can, or supply tank of an engine, containing gasoline, naphtha, kerosene, or fuel oil, shall be opened until ready to make the transfer from the package or can to the supply tank, and in transferring, a funnel shall be used so as to avoid spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap on the supply tank shall be immediately closed.

(I) In no case shall the package, can, or supply tank be opened when an open light or other thing containing fire is within twenty-five feet of the same, provided that subject to the approval of the chief, the restrictions in the use of fuel oil in a mine shall not apply to mobile or portable machinery, if ~~such~~ the mobile or portable machinery is used in a clay, limestone, shale, or any other mine not a coal mine.

Nothing in this section shall be construed to prohibit or impede the use of diesel equipment in an underground coal mine, provided that the chief approves the use of the equipment in underground mines and the equipment satisfies requirements established in rules adopted by the chief under section 1513.02 of the Revised Code governing the use of diesel equipment in

underground mines.

No owner, lessee, agent, or operator of a mine shall violate this section.

Sec. 1571.011. Nothing in this chapter applies to activities that are permitted and regulated under Chapter 1514. of the Revised Code.

Sec. 2305.041. With respect to a lease or license by which a right is granted to operate or to sink or drill wells on land in this state for natural gas or petroleum and that is recorded in accordance with section 5301.09 of the Revised Code, an action alleging breach of any express or implied provision of the lease or license concerning the calculation or payment of royalties shall be brought within the time period that is specified in section 1302.98 of the Revised Code. An action alleging a breach with respect to any other issue that the lease or license involves shall be brought within the time period specified in section 2305.06 of the Revised Code.

Sec. 3734.13. (A) The director of environmental protection may issue, modify, suspend, or revoke enforcement orders in accordance with Chapter 3745. of the Revised Code to a holder of a registration certificate, permit, or license issued by the director or a board of health under this chapter, or to another person, directing the holder or person to abate a violation, or to prevent any threatened violation, of any section of this chapter other than sections 3734.90 to 3734.9013 of the Revised Code, a rule adopted thereunder, or a term or condition of a permit, license, or variance issued thereunder within a specified, reasonable time.

(B) Notwithstanding division (C) of section 3734.85 of the Revised Code, if the director determines that an emergency exists requiring immediate action to protect the public health or safety or the environment, ~~he~~ the director may issue an order, without notice or hearing, reciting the existence of the emergency and requiring that such action be taken as necessary to meet the emergency. The order shall take effect immediately. Any person to whom the order is directed shall comply immediately, but on application to the director shall be afforded a hearing as soon as possible and not later than thirty days after application. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it. No emergency order shall remain in effect for more than one hundred twenty days after its issuance.

(C) If the director determines that any person is violating or has violated this chapter, a rule adopted thereunder, or a term or condition of a permit, license, variance, or order issued thereunder, the director may request in writing that the attorney general bring a civil action for appropriate relief, including a temporary restraining order, preliminary or permanent injunction, and civil penalties in any court of competent jurisdiction. Such

an action shall have precedence over all other cases. Except as otherwise provided in this division with regard to a violation of the provisions of this chapter governing scrap tires, a rule adopted under those provisions, a term or condition of a permit or license issued under them, or a term or condition of an order issued pertaining to scrap tires, the court may impose upon the person a civil penalty of not more than ten thousand dollars for each day of each violation of this chapter other than a violation of section 3734.60 of the Revised Code ~~or~~, a violation of sections 3734.90 to 3734.9013 of the Revised Code or a rule adopted under those sections, a rule adopted thereunder other than a rule adopted under division (B) of section 3734.122 of the Revised Code, or a term or condition of a permit, license, variance, or order issued thereunder, or a violation of sections 3734.62 to 3734.65 of the Revised Code. The court may impose upon a person who violates a rule adopted under division (B) of section 3734.122 of the Revised Code a civil penalty of not more than twenty-five thousand dollars for each day of each violation of the rule. The court may impose upon a person who violates section 3734.60 of the Revised Code a civil penalty of not more than two hundred fifty dollars for each day of violation of that section. The court may impose upon a person who violates any of the provisions of this chapter governing scrap tires, a rule adopted under those provisions, a term or condition of a permit or license issued under them, or a term or condition of an order issued pertaining to scrap tires a civil penalty of not more than five thousand dollars for each day of each violation, except that if the violation is of a provision, rule, or term or condition that relates to the open burning or open dumping of scrap tires, or if the violation is of an emergency order of the director issued under division (B) of section 3734.13 of the Revised Code that pertains to scrap tires, the court may impose a civil penalty of not more than ten thousand dollars for each day of each violation. The court may impose upon a person who violates section 3734.62 of the Revised Code a civil penalty of not more than one hundred dollars for each violation of that section. The court may impose upon a person who violates section 3734.63, 3734.64, or 3734.65 of the Revised Code a civil penalty of not more than five thousand dollars for each day of each violation of the applicable section, but the total amount of a civil penalty imposed upon a person for a violation of the applicable section shall not exceed twenty-five thousand dollars.

Any action under this section is a civil action, governed by the Rules of Civil Procedure.

(D) No person shall violate any term or condition of any order issued under this section.

(E) Except as otherwise provided in this division, moneys resulting from civil penalties imposed under division (C) of this section shall be paid into the hazardous waste clean-up fund created in section 3734.28 of the Revised Code. Moneys resulting from civil penalties imposed under division (C) of this section for violations of any of the provisions of this chapter governing scrap tires, rules adopted under those provisions, terms or conditions of permits or licenses issued under them, or terms or conditions of orders issued pertaining to scrap tires shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

Sec. 3734.61. As used in sections 3734.61 to 3734.65 of the Revised Code:

(A) "Manufacturer" means any person that produces a mercury-containing thermometer or serves as an importer or domestic distributor of a mercury-containing thermometer that is produced outside the United States. In the case of a multicomponent mercury-containing thermometer, "manufacturer" means the last manufacturer to produce or assemble the thermometer unless the multicomponent mercury-containing thermometer is produced outside the United States, in which case "manufacturer" means the importer or domestic distributor.

(B) "Mercury" means elemental mercury and mercury compounds.

(C) "Mercury-added measuring device" means an instrument containing mercury that is designed to measure an amount or quantity of humidity, pressure, temperature, or vacuum or the force of wind, including, but not limited to, anemometers, barometers, flow meters, hydrometers, hygrometers, manometers, sphygmomanometers, and thermometers.

(D) "Mercury-added novelty" means a product in which mercury is present and that is intended mainly for personal or household enjoyment or adornment, including, but not limited to, products intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, footwear, other items of apparel, or similar products. "Mercury-added novelty" does not include a product that solely includes a fluorescent light bulb.

Sec. 3734.62. On and after the effective date of this section, no school district or educational service center established under Chapter 3311. of the Revised Code, community school established under Chapter 3314. of the Revised Code, or nonpublic school for which the state board of education prescribes standards under section 3301.07 of the Revised Code and no employee of such a school district, educational service center, community school, or nonpublic school shall purchase mercury or a mercury-added measuring device for classroom use.

If a school district, educational service center, community school, or nonpublic school or an employee of a school district, educational service center, community school, or nonpublic school purchases mercury or a mercury-added measuring device for classroom use on or after the effective date of this section in violation of this section, but properly recycles or disposes of the mercury or mercury-added measuring device upon learning of or being informed of the violation and creates and implements a mercury reduction plan, the director of environmental protection shall consider the recycling or disposal of the mercury or mercury-added measuring device and the implementation of and compliance with the mercury reduction plan as mitigating circumstances for purposes of enforcement of a violation of this section.

Sec. 3734.63. (A)(1) Beginning six months after the effective date of this section, and except as otherwise provided in division (A)(2) of this section, no manufacturer shall offer a mercury-containing thermometer for sale or distribute a mercury-containing thermometer for promotional purposes in this state unless the sale or distribution of a mercury-containing thermometer is required in order to comply with federal law, a person demonstrates to the director that a mercury-containing thermometer is the only temperature measuring device that is feasible for a research, quality control, or manufacturing application, or the only component of the thermometer that contains mercury is a button cell battery.

(2) Division (A)(1) of this section does not apply to the sale of a mercury-containing thermometer to a person who purchases a mercury-containing thermometer pursuant to a valid prescription.

(B) Beginning six months after the effective date of this section, a manufacturer of a mercury-containing thermometer that lawfully offers for sale or distributes such a thermometer in this state shall do both of the following:

(1) Provide notice in a conspicuous manner on the packaging of the thermometer that the thermometer contains mercury;

(2) Provide clear instructions with the thermometer regarding careful handling of the thermometer to avoid breakage, proper cleanup of mercury if the thermometer breaks, and proper management and disposal of the thermometer.

Sec. 3734.64. Beginning six months after the effective date of this section, no person shall offer a mercury-added novelty for sale or distribute such a novelty for promotional purposes in this state unless the only mercury in the mercury-added novelty is a removable button cell battery. Beginning January 1, 2011, no person shall offer any mercury-added

novelty for sale or distribute any mercury-added novelty for promotional purposes in this state.

Sec. 3734.65. Beginning one year after the effective date of this section, no person shall offer a mercury-containing thermostat for sale in this state or install a mercury-containing thermostat in this state unless the mercury-containing thermostat is installed in the residence of a visually impaired person or the thermostat is used to sense and control temperatures as a part of a manufacturing process.

Sec. 3745.01. There is hereby created the environmental protection agency, headed by the director of environmental protection. The agency, under the supervision of the director, shall administer the laws pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; the cessation of chemical handling operations; the prevention, control, and abatement of air and water pollution; public water supply; comprehensive water resource management planning; products that contain mercury as defined in section 3734.61 of the Revised Code; and the disposal and treatment of solid wastes, infectious wastes, construction and demolition debris, hazardous waste, sewage, industrial waste, and other wastes. The director may do all of the following:

(A) Provide such methods of administration, appoint such personnel, make such reports, and take such other action as may be necessary to comply with the requirements of the federal laws and regulations pertaining to chemical emergency planning, community right-to-know, and toxic chemical release reporting; air and water pollution control; public water supply; water resource planning; and waste disposal and treatment;

(B) Procure by contract the temporary or intermittent services of experts or consultants, or organizations thereof, when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(C) Advise, consult, cooperate, and enter into contracts or agreements with any other agencies of the state, the federal government, other states, and interstate agencies and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter and Chapters 3704., 3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code;

(D) Establish advisory boards in accordance with section 121.13 of the Revised Code;

(E) Accept on behalf of the state any grant, gift, or contribution made for toxic chemical release reporting, air or water pollution control, public water supply, water resource planning, waste disposal or treatment, or related purposes, and expend it for those purposes;

(F) Make an annual report to the governor and the general assembly on activities and expenditures as well as recommendations for such additional legislation as the director considers appropriate to carry out the director's duties or accomplish the purposes of this section;

(G) Enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and grant or accept easements or sell real property pursuant to section 3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as applicable.

The agency shall utilize the laboratory facilities of the department of health and other state institutions and agencies to the maximum extent that the utilization is practicable, economical, and technically satisfactory.

The director shall maintain and keep available for public inspection, at the director's principal office, a current register of all applications filed for permits, leases, licenses, variances, certificates, and approval of plans and specifications and of publicly owned treatment works pretreatment programs under the director's jurisdiction, hearings pending, the director's final action thereon, and the dates on which the filings, hearings, and final actions occur. The director shall maintain and keep available for public inspection at the director's principal office all plans, reports, and other documents required to be filed with the emergency response commission under Chapter 3750. of the Revised Code and rules adopted under it, and all reports and other documents required to be filed with the director under Chapter 3751. of the Revised Code and rules adopted under it, subject to the requirements of those chapters and rules adopted under them for the protection of trade secrets and confidential business information from disclosure to persons not authorized under those laws to receive trade secret or confidential business information.

Sec. 3745.08. (A) An officer of an agency of the state or of a political subdivision, acting in ~~his~~ the officer's representative capacity, or any person who is or will be aggrieved or adversely affected by a violation that has occurred, is occurring, or will occur may file a complaint, in writing and verified by the affidavit of the complainant, ~~his~~ the complainant's agent, or attorney, with the director of environmental protection, in accordance with the rules of the director adopted pursuant to Chapter 119. of the Revised Code, alleging that another person has violated, is violating, or will violate any law, rule, standard, or order relating to air pollution, water pollution, solid waste, infectious wastes, construction and demolition debris, public water supply, hazardous waste, products that contain mercury, or cessation of chemical handling operations, or, if the person is in possession of a valid license, permit, variance, or plan approval relating to air pollution, water

pollution, solid waste, infectious wastes, construction and demolition debris, public water supply, or hazardous waste, that the person has violated, is violating, or will violate the conditions of the license, permit, variance, or plan approval. The affidavit verifying a complaint authorized by this section may be made before any person authorized by law to administer oaths and shall be signed by the person who makes it. The person before whom it was taken shall certify that it was sworn to before ~~him~~ that person and signed in ~~his~~ that person's presence, and ~~his~~ that person's certificate signed officially by ~~him~~ that person shall be evidence that the affidavit was made, that the name of the person making the affidavit was written by ~~himself~~ the maker of the affidavit, and that ~~he~~ the maker of the affidavit was that person.

(B) Upon receipt of a complaint authorized by this section, the director shall cause a prompt investigation to be conducted such as is reasonably necessary to determine whether a violation, as alleged, has occurred, is occurring, or will occur. The investigation shall include a discussion of the complaint with the alleged violator. If, upon completion of the investigation, the director determines that a violation, as alleged, has occurred, is occurring, or will occur, ~~he~~ the director may enter such order as may be necessary, request the attorney general to commence appropriate legal proceedings, or, where ~~he~~ the director determines that prior violations have been terminated and that future violations of the same kind are unlikely to occur, ~~he~~ the director may dismiss the complaint. If the director does not determine that a violation, as alleged, has occurred, is occurring, or will occur, ~~he~~ the director shall dismiss the complaint. Before taking any action under this division, the director may commence a hearing. Twenty days prior to any hearing, the director shall cause publication of notice of the hearing in a newspaper with general circulation in the county wherein the alleged violation has occurred, is occurring, or will occur, and also shall mail written notice by certified mail, return receipt requested, to the person who filed the complaint and to the alleged violator. If the director enters an order pursuant to this division without having commenced a hearing, the director or ~~his~~ the director's delegate, prior to entry of the order, shall provide an opportunity to the complainant and the alleged violator to attend a conference with the director or ~~his~~ the director's delegate concerning the alleged violation.

(C) Any hearing commenced under this section shall be conducted before the director or a hearing examiner designated by the director. The agency and the alleged violator shall be parties. The person who filed the verified complaint may participate as a party by filing with the director, at any time prior to the hearing, a written notice of ~~his~~ the complainant's intent

to so participate. Any other person may be permitted to intervene upon the granting by the director or hearing examiner of a motion to intervene filed in accordance with the rules of the director adopted pursuant to Chapter 119. of the Revised Code.

(D) A complaint filed under this section may be consolidated with any other complaint filed under this section, or any finding of the director, where the director determines that consolidation will facilitate enforcement of any law that the agency is charged with administering under section 3745.01 of the Revised Code and there are one or more issues of fact or law in common. Not more than one hearing under this section shall be conducted with respect to each violation alleged.

Sec. 4115.04. (A)(1) Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the director of commerce determine the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Revised Code for the class of work called for by the public improvement, in the locality where the work is to be performed. ~~Such~~ Except as provided in division (A)(2) of this section, that schedule of wages shall be attached to and made part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. A copy of the bidding blank shall be filed with the director before ~~such~~ the contract is awarded. A minimum rate of wages for common laborers, on work coming under the jurisdiction of the department of transportation, shall be fixed in each county of the state by ~~said~~ the department of transportation, in accordance with section 4115.05 of the Revised Code.

(2) In the case of contracts that are administered by the department of natural resources, the director of natural resources or the director's designee shall include language in the contracts requiring wage rate determinations and updates to be obtained directly from the department of commerce through electronic or other means as appropriate. Contracts that include this requirement are exempt from the requirements established in division (A)(1) of this section that involve attaching the schedule of wages to the specifications for the work, making the schedule part of those specifications, and printing the schedule on the bidding blanks where the work is done by contract.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided that the federal

government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code if none of the funds used in constructing the improvements are the proceeds of bonds or other obligations ~~which that~~ are secured by the full faith and credit of the state, a county, a township, or a municipal corporation and none of the funds used in constructing the improvements, including funds used to repay any amounts borrowed to construct the improvements, are funds that have been appropriated for that purpose by the state, a board of county commissioners, a township, or a municipal corporation from funds generated by the levy of a tax; ~~provided, however,~~ that a county hospital or municipal hospital may elect to apply sections 4115.03 to 4115.16 of the Revised Code to a public improvement undertaken by, or under contract for, the hospital.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and

not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less, threshing machinery, hay-baling machinery, corn sheller, hammermill and agricultural tractors, machinery used in the production of horticultural, agricultural, and vegetable products, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, including a farm truck as defined in section 4503.04 of the Revised Code, that is designed by the manufacturer to carry a load of no more than one ton and is used exclusively for purposes other than engaging in business for profit.

(I) "Bus" means any motor vehicle that has motor power and is designed and used for carrying more than nine passengers, except any motor vehicle that is designed and used for carrying not more than fifteen passengers in a ridesharing arrangement.

(J) "Commercial car" or "truck" means any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

(K) "Bicycle" means every device, other than a tricycle that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which any person may ride, and that has either two tandem wheels, or one wheel in front and two wheels in the rear, any of which is more than fourteen inches in diameter.

(L) "Motorized bicycle" means any vehicle that either has two tandem wheels or one wheel in the front and two wheels in the rear, that is capable of being pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

(M) "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. "Trailer" does not include a manufactured home or travel trailer.

(N) "Noncommercial trailer" means any trailer, except a travel trailer or trailer that is used to transport a boat as described in division (B) of this section, but, where applicable, includes a vehicle that is used to transport a boat as described in division (M) of this section, that has a gross weight of

no more than three thousand pounds, and that is used exclusively for purposes other than engaging in business for a profit.

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

- (1) It is designed for the sole purpose of recreational travel.
- (2) It is not used for the purpose of engaging in business for profit.
- (3) It is not used for the purpose of engaging in intrastate commerce.
- (4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

(6) It is classed as one of the following:

(a) "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty square feet of space when erected on site. "Travel trailer" includes a tent-type fold-out camping trailer as defined in section 4517.01 of the Revised Code.

(b) "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

(c) "Truck camper" means a nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less.

(V) "Owner" includes any person or firm, other than a manufacturer or dealer, that has title to a motor vehicle, except that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" includes in addition manufacturers and dealers.

(W) "Manufacturer" and "dealer" include all persons and firms that are regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles, at an established place of business that is used exclusively for the purpose of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. A place of business that is used for manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles shall be deemed to be used exclusively for those purposes even though snowmobiles or all-purpose vehicles are sold or displayed for sale thereat, even though farm machinery is sold or displayed for sale thereat, or even though repair, accessory, gasoline and oil, storage, parts, service, or paint departments are maintained thereat, or, in any county having a population of less than seventy-five thousand at the last federal

census, even though a department in a place of business is used to dismantle, salvage, or rebuild motor vehicles by means of used parts, if such departments are operated for the purpose of furthering and assisting in the business of manufacturing, selling, displaying, offering for sale, or dealing in motor vehicles. Places of business or departments in a place of business used to dismantle, salvage, or rebuild motor vehicles by means of using used parts are not considered as being maintained for the purpose of assisting or furthering the manufacturing, selling, displaying, and offering for sale or dealing in motor vehicles.

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools.

(FF) "Apportionable vehicle" means any vehicle that is used or intended

for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications:

(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds;

(2) Is a power unit having three or more axles, regardless of the gross vehicle weight;

(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds.

"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this state, or any political subdivisions thereof.

(GG) "Chartered party" means a group of persons who contract as a group to acquire the exclusive use of a passenger-carrying motor vehicle at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the United States department of transportation, for the purpose of group travel to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin.

(HH) "International registration plan" means a reciprocal agreement of member jurisdictions that is endorsed by the American association of motor vehicle administrators, and that promotes and encourages the fullest possible use of the highway system by authorizing apportioned registration of fleets of vehicles and recognizing registration of vehicles apportioned in member jurisdictions.

(II) "Restricted plate" means a license plate that has a restriction of time, geographic area, mileage, or commodity, and includes license plates issued to farm trucks under division (J) of section 4503.04 of the Revised Code.

(JJ) "Gross vehicle weight," with regard to any commercial car, trailer, semitrailer, or bus that is taxed at the rates established under section 4503.042 of the Revised Code, means the unladen weight of the vehicle fully equipped plus the maximum weight of the load to be carried on the vehicle.

(KK) "Combined gross vehicle weight" with regard to any combination of a commercial car, trailer, and semitrailer, that is taxed at the rates established under section 4503.042 of the Revised Code, means the total unladen weight of the combination of vehicles fully equipped plus the

maximum weight of the load to be carried on that combination of vehicles.

(LL) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an agreement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(MM) "Manufactured home" has the same meaning as in division (C)(4) of section 3781.06 of the Revised Code.

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a

motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. "Utility vehicle" includes a vehicle with a maximum attainable speed of twenty miles per hour or less that is used exclusively within the boundaries of state parks by state park employees or volunteers for the operation or maintenance of state park facilities.

Sec. 5577.081. (A) Except when transferring unfinished aggregate material between facilities that are under the control of the same owner or operator that is subject to Chapter 1514. of the Revised Code or when unloading or loading finished aggregate product within a ten-mile radius of a surface mining operation that is permitted and regulated under that chapter, all vehicles entering or leaving such an operation that have a gross vehicle weight as defined in division (JJ) of section 4501.01 of the Revised Code that is in excess of sixty-six thousand pounds shall use the specific roads designated pursuant to sections 303.14 and 303.141 or 519.14 and 519.141 of the Revised Code as the primary means of ingress to and egress from the facilities or operation.

(B) The owner or operator of a surface mining operation that is permitted under Chapter 1514. of the Revised Code and that is subject to the use of specific roads as the primary means of ingress to and egress from the operation pursuant to sections 303.14 and 303.141 or 519.14 and 519.141 of the Revised Code shall post a sign in a conspicuous location to inform the drivers of trucks entering and leaving the operation of the roads to use as the primary means of ingress to and egress from the operation.

(C)(1) Whoever violates this section shall receive a written warning in such a manner that it becomes a part of the person's permanent record that is maintained by the bureau of motor vehicles and assists in monitoring violations of this section.

(2) A person who commits a second offense within one year after committing the first offense is guilty of a minor misdemeanor.

(3) A person who commits a third or subsequent offense within one year after committing the first offense is guilty of a misdemeanor of the fourth degree.

(D) Fine money that is collected under division (C) of this section shall be deposited in the state treasury to the credit of the surface mining fund

created in section 1514.06 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~~ Ten 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;

(8) Except as otherwise provided in this division or in rules adopted by the reclamation forfeiture fund advisory board under section 1513.182 of the Revised Code, an additional fourteen cents per ton of coal produced from an area under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code for which the performance security is provided under division (C)(2) of section 1513.08 of the Revised Code. If at the end of a fiscal biennium the balance of the reclamation forfeiture fund created in section 1513.18 of the Revised Code is equal to or greater than ten million dollars, the rate levied shall be twelve cents per ton. If at the end of a fiscal biennium the balance of the fund is at least five million dollars, but less than ten million dollars, the rate levied shall be fourteen cents per ton. If at the end of a fiscal biennium the balance of the fund is less than five million dollars, the rate levied shall be sixteen cents per ton. Not later than thirty days after the close of a fiscal biennium, the chief of the division of mineral resources management shall certify to the tax commissioner the amount of the balance of the reclamation forfeiture fund as of the close of the fiscal biennium. Any necessary adjustment of the rate levied shall take effect on the first day of the following January and shall remain in effect during the calendar biennium that begins on that date.

(9) An additional one and two-tenths cents per ton of coal mined by surface mining methods.

(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~~ four and seventy-six-hundredths 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 reclamation forfeiture fund created in section 1513.18 of the Revised Code, fifty-seven and nine-tenths eighty and ninety-five-hundredths 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 fourteen and twenty-nine-hundredths per cent shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code. When, at any time during a fiscal year, the chief of the division of mineral resources management 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 tax commissioner to instead credit to the coal mining administration and reclamation reserve fund during the remainder of 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 reclamation 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 fund created in section 1514.06 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, ninety per cent shall be credited to the oil and gas well fund created in section 1509.02 of the Revised Code and ten per cent shall be credited to the geological mapping fund. 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 fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(8) of this section shall be credited to the reclamation forfeiture fund.

All of the moneys received by the treasurer of state from the tax levied in division (A)(9) of this section shall be credited to the unreclaimed lands fund.

(C) ~~For the purpose of paying the state's expenses for reclaiming mined~~

~~lands that the operator failed to reclaim under a coal mining and reclamation permit issued under 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. Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.~~

~~(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 reclamation forfeiture fund created in section 1513.18 of the Revised Code.~~

When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining administration and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by this division (A)(8) of this section for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of ~~such~~ lands for which the performance security has been provided under division (C)(2) of section 1513.08 of the Revised Code, the purposes for which the tax under this division (A)(8) of this section 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 those findings to the tax commissioner, and the tax levied under division (A)(8) of this section shall cease to be imposed after the last day of that calendar year on coal produced under a coal mining and reclamation permit issued under Chapter 1513. of the Revised Code if the permittee has made tax payments under division (A)(8) of this section during each of the preceding five full

calendar years. Not later than thirty days after the close of a fiscal year, the chief shall certify to the tax commissioner the identity of any permittees who accordingly no longer are required to pay the tax levied under division (A)(8) of this section.

Sec. 5749.11. (A) There is hereby allowed a nonrefundable credit against the taxes imposed under division (A)(8) of section 5749.02 of the Revised Code for any severer to which a reclamation tax credit certificate is issued under section 1513.171 of the Revised Code. The credit shall be claimed in the amount shown on the certificate. The credit shall be claimed by deducting the amount of the credit from the amount of the first tax payment due under section 5749.06 of the Revised Code after the certificate is issued.

If the amount of the credit shown on a certificate exceeds the amount of the tax otherwise due with that first payment, the excess shall be claimed against the amount of tax otherwise due on succeeding payment dates until the entire credit amount has been deducted. The total amount of credit claimed against payments shall not exceed the total amount of credit shown on the certificate.

(B) A severer claiming a credit under this section shall retain a reclamation tax credit certificate for not less than four years following the date of the last tax payment against which the credit allowed under that certificate was applied. Severers shall make tax credit certificates available for inspection by the tax commissioner upon the tax commissioner's request.

SECTION 2. That existing sections 123.04, 303.14, 307.37, 519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 1531.02, 1531.04, 1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 3745.08, 4115.04, 4501.01, and 5749.02 and sections 1502.11, 1513.10, 1521.08, and 1533.78 of the Revised Code are hereby repealed.

SECTION 3. It is the intent of the General Assembly to appropriate five million dollars for the reclamation of land affected by the surface mining of coal. Of that five million dollars, not more than fifty thousand dollars shall be used to study the management of the financial resources of the coal mining regulatory program of the Division of Mineral Resources Management in the Department of Natural Resources. The Chief of the Division of Mineral Resources Management, in consultation with a statewide association representing the coal mining industry and a statewide association representing environmental advocacy, shall develop an outline of the subjects for the study. The Chief shall select an objective third party that has knowledge in the management of finances to conduct the study. Upon completion of the study, the third party shall prepare a report of its findings and submit the report to the Director of Natural Resources.

SECTION 4. Not later than five years after the effective date of this act, the Chief of the Division of Mineral Resources Management shall submit a report to the Governor summarizing the activities of the Division of Mineral Resources Management under sections 1514.40 to 1514.47 of the Revised Code, as enacted by this act, trends in miner accident rates, and the number and causes of life-threatening accidents and fatalities since the effective date of this act. In addition, the report shall compare those trends and accident rates with the trends and accident rates that occurred ten years prior to the effective date of this act and, if necessary, recommend changes to those sections in order to improve miner health or safety.

SECTION 5. The amendment of section 1541.40 of the Revised Code by this act applies to members appointed to the Ohio Parks and Recreation Council on and after the effective date of this act.

SECTION 6. Section 5749.02 of the Revised Code as amended by this act shall take effect on April 1, 2007.

SECTION 7. Section 1533.10 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 66 and H.B. 296 of the 126th General Assembly. Section 1547.54 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 345 and Sub. S.B. 150 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. H. B. No. 443

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

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